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SITTING DAYS—2009

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>February</td>
<td>3, 4, 5, 9, 10, 11, 12, 23, 24, 25, 26</td>
</tr>
<tr>
<td>March</td>
<td>10, 11, 12, 16, 17, 18, 19</td>
</tr>
<tr>
<td>May</td>
<td>12, 13, 14, 25, 26, 27, 28</td>
</tr>
<tr>
<td>June</td>
<td>1, 2, 3, 4, 15, 16, 17, 18, 22, 23, 24, 25</td>
</tr>
<tr>
<td>August</td>
<td>11, 12, 13, 17, 18, 19, 20</td>
</tr>
<tr>
<td>September</td>
<td>7, 8, 9, 10, 14, 15, 16, 17</td>
</tr>
<tr>
<td>October</td>
<td>19, 20, 21, 22, 26, 27, 28, 29</td>
</tr>
<tr>
<td>November</td>
<td>16, 17, 18, 19, 23, 24, 25, 26</td>
</tr>
</tbody>
</table>

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FORTY-SECOND PARLIAMENT
FIRST SESSION—FOURTH PERIOD

Governor-General
Her Excellency Ms Quentin Bryce, Companion of the Order of Australia

House of Representatives Officeholders
Speaker—Mr Harry Alfred Jenkins MP
Deputy Speaker—Ms Anna Elizabeth Burke MP
Second Deputy Speaker—Hon. Bruce Craig Scott MP

Members of the Speaker’s Panel—Hon. Dick Godfrey Harry Adams MP, Hon. Kevin James Andrews MP, Hon. Archibald Ronald Bevis MP, Ms Sharon Leah Bird MP, Mr Steven Georganas MP, Hon. Judith Eleanor Moylan MP, Ms Janelle Anne Saffin MP, Mr Albert John Schultz MP, Mr Patrick Damien Secker MP, Mr Peter Sid Sidebottom MP, Hon. Peter Neil Slipper MP, Mr Kelvin John Thomson MP, Hon. Danna Sue Vale MP and Dr Malcolm James Washer MP

Leader of the House—Hon. Anthony Norman Albanese MP
Deputy Leader of the House—Hon. Stephen Francis Smith MP
Manager of Opposition Business—Hon. Joseph Benedict Hockey MP
Deputy Manager of Opposition Business—Mr Luke Hartsuyker MP

Party Leaders and Whips
Australian Labor Party
Leader—Hon. Kevin Michael Rudd MP
Deputy Leader—Hon. Julia Eileen Gillard MP
Chief Government Whip—Hon. Leo Roger Spurway Price MP
Government Whips—Ms Jill Griffiths Hall MP and Mr Christopher Patrick Hayes MP

Liberal Party of Australia
Leader—Hon. Malcolm Bligh Turnbull MP
Deputy Leader—Hon. Julie Isabel Bishop MP
Chief Opposition Whip—Hon. Alex Somlyay MP
Opposition Whip—Mr Michael Andrew Johnson MP
Deputy Opposition Whip—Ms Nola Bethwyn Marino MP

The Nationals
Leader—Hon. Warren Errol Truss MP
Chief Whip—Mrs Kay Elizabeth Hull MP
Whip—Mr Paul Christopher Neville MP

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<table>
<thead>
<tr>
<th>Members</th>
<th>Division</th>
<th>Party</th>
</tr>
</thead>
<tbody>
<tr>
<td>Abbott, Hon. Anthony John</td>
<td>Warringah, NSW</td>
<td>LP</td>
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<tr>
<td>Adams, Hon. Dick Godfrey Harry</td>
<td>Lyons, Tas</td>
<td>ALP</td>
</tr>
<tr>
<td>Albanese, Hon. Anthony Norman</td>
<td>Grayndler, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Andrews, Hon. Kevin James</td>
<td>Menzies, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Bailey, Hon. Frances Esther</td>
<td>McEwen, Vic</td>
<td>LP</td>
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<td>Baldwin, Hon. Robert Charles</td>
<td>Paterson, NSW</td>
<td>LP</td>
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<td>Bevis, Hon. Archibald Ronald</td>
<td>Brisbane, Qld</td>
<td>ALP</td>
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<td>Bidgood, James Mark</td>
<td>Dawson, Qld</td>
<td>ALP</td>
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<td>Billson, Hon. Bruce Fredrick</td>
<td>Dunkley, Vic</td>
<td>LP</td>
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<tr>
<td>Bird, Sharon Leah</td>
<td>Cunningham, NSW</td>
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<td>Mackellar, NSW</td>
<td>LP</td>
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<td>Bishop, Hon. Julie Isabel</td>
<td>Curtin, WA</td>
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<td>Bowen, Hon. Christopher Eyles</td>
<td>Prospect, NSW</td>
<td>ALP</td>
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<td>Bradbury, David John</td>
<td>Lindsay, NSW</td>
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<tr>
<td>Briggs, Jamie Edward</td>
<td>Mayo SA</td>
<td>LP</td>
</tr>
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<td>Broadbent, Russell Evan</td>
<td>McMillan, Vic</td>
<td>LP</td>
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<td>Burke, Anna Elizabeth</td>
<td>Chisholm, Vic</td>
<td>ALP</td>
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<td>ALP</td>
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<td>Butler, Mark Christopher</td>
<td>Port Adelaide, SA</td>
<td>ALP</td>
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<td>Holt, Vic</td>
<td>ALP</td>
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<td>Campbell, Jodie Louise</td>
<td>Bass, Tas</td>
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<td>Wakefield, SA</td>
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<td>Corangamite, Vic</td>
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<td>Chester, Darren</td>
<td>Gippsland, Vic.</td>
<td>Nats</td>
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<td>Moncrieff, Qld</td>
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<td>Blaxland, NSW</td>
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<td>Calare, NSW</td>
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<td>Collins, Julie Maree</td>
<td>Franklin, Tas</td>
<td>ALP</td>
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<td>Combet, Hon. Gregory Ivan, AM</td>
<td>Charlton, NSW</td>
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<td>Coulton, Mark Maclean</td>
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<td>Nats</td>
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<td>Crean, Hon. Simon Findlay</td>
<td>Hotham, Vic</td>
<td>ALP</td>
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<td>Danby, Michael David</td>
<td>Melbourne Ports, Vic</td>
<td>ALP</td>
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<tr>
<td>D’Ath, Yvette Maree</td>
<td>Petrie, Qld</td>
<td>ALP</td>
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<td>Debus, Hon. Robert John</td>
<td>Macquarie, NSW</td>
<td>ALP</td>
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<tr>
<td>Dreyfus, Mark Alfred, QC</td>
<td>Isaacs, Vic</td>
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<td>Dutton, Hon. Peter Craig</td>
<td>Dickson, Qld</td>
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<td>Richmond, NSW</td>
<td>ALP</td>
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<td>Ellis, Annette Louise</td>
<td>Canberra, ACT</td>
<td>ALP</td>
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<td>Ellis, Hon. Katherine Margaret</td>
<td>Adelaide, SA</td>
<td>ALP</td>
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<td>Rankin, Qld</td>
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<td>Macarthur, NSW</td>
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<td>Ferguson, Hon. Laurie Donald Thomas</td>
<td>Reid, NSW</td>
<td>ALP</td>
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<td>Ferguson, Hon. Martin John, AM</td>
<td>Batman, Vic</td>
<td>ALP</td>
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<td>Fitzgibbon, Hon. Joel Andrew</td>
<td>Hunter, NSW</td>
<td>ALP</td>
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<td>Forrest, John Alexander</td>
<td>Mallee, Vic</td>
<td>Nats</td>
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<td>Garrett, Hon. Peter Robert, AM</td>
<td>Kingsford Smith, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Gash, Joanna</td>
<td>Gilmore, NSW</td>
<td>LP</td>
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<tr>
<td>Members of the House of Representatives</td>
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<td></td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td></td>
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<tr>
<td><strong>Members</strong></td>
<td><strong>Division</strong></td>
<td><strong>Party</strong></td>
</tr>
<tr>
<td>Georganas, Steven</td>
<td>Hindmarsh, SA</td>
<td>ALP</td>
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<td>George, Jennie</td>
<td>Throsby, NSW</td>
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<td>Georgiou, Petro</td>
<td>Kooyong, Vic</td>
<td>LP</td>
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<td>Bendigo, Vic</td>
<td>ALP</td>
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<tr>
<td>Gillard, Hon. Julia Eileen</td>
<td>Lalor, Vic</td>
<td>ALP</td>
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<td>Gray, Hon. Gary, AO</td>
<td>Brand, WA</td>
<td>ALP</td>
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<td>Grierson, Sharon Joy</td>
<td>Newcastle, NSW</td>
<td>ALP</td>
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<td>Griffin, Hon. Alan Peter</td>
<td>Bruce, Vic</td>
<td>ALP</td>
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<td>Haase, Barry Wayne</td>
<td>Kalgoorlie, WA</td>
<td>LP</td>
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<td>Hale, Damian Francis</td>
<td>Solomon, NT</td>
<td>ALP</td>
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<td>Hall, Jill Griffiths</td>
<td>Shortland, NSW</td>
<td>ALP</td>
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<td>Hartsuyker, Luke</td>
<td>Cowper, NSW</td>
<td>Nats</td>
</tr>
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<td>Hawke, Alexander George</td>
<td>Mitchell, NSW</td>
<td>LP</td>
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<tr>
<td>Hawker, Hon. David Peter Maxwell</td>
<td>Wannon, Vic</td>
<td>LP</td>
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<tr>
<td>Hayes, Christopher Patrick</td>
<td>Werriwa, NSW</td>
<td>ALP</td>
</tr>
<tr>
<td>Hockey, Hon. Joseph Benedict</td>
<td>North Sydney, NSW</td>
<td>LP</td>
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<tr>
<td>Hull, Kay Elizabeth</td>
<td>Riverina, NSW</td>
<td>Nats</td>
</tr>
<tr>
<td>Hunt, Hon. Gregory Andrew</td>
<td>Flinders, Vic</td>
<td>LP</td>
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<td>Irons, Stephen James</td>
<td>Swan, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Irwin, Julia Claire</td>
<td>Fowler, NSW</td>
<td>ALP</td>
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<td>Jackson, Sharryn Maree</td>
<td>Hasluck, WA</td>
<td>ALP</td>
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<td>Jenkins, Henry Alfred</td>
<td>Scullin, Vic</td>
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<td>Jensen, Dennis Geoffrey</td>
<td>Tangney, WA</td>
<td>LP</td>
</tr>
<tr>
<td>Johnson, Michael Andrew</td>
<td>Ryan, Qld</td>
<td>LP</td>
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<tr>
<td>Katter, Hon. Robert Carl</td>
<td>Kennedy, Qld</td>
<td>Ind</td>
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<td>Keenan, Michael Fayat</td>
<td>Stirling, WA</td>
<td>LP</td>
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<td>Kelly, Hon. Michael Joseph, AM</td>
<td>Eden-Monaro, NSW</td>
<td>ALP</td>
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<td>Kerr, Hon. Duncan James Colquhoun, SC</td>
<td>Denison, Tas</td>
<td>ALP</td>
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<td>King, Catherine Fiona</td>
<td>Ballarat, Vic</td>
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<td>Bowman, Qld</td>
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<td>Ley, Hon. Susan Penelope</td>
<td>Farrer, NSW</td>
<td>LP</td>
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<td>Lindsay, Hon. Peter John</td>
<td>Herbert, Qld</td>
<td>LP</td>
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<td>Livermore, Kirsten Fiona</td>
<td>Capricornia, Qld</td>
<td>ALP</td>
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<td>McClelland, Hon. Robert Bruce</td>
<td>Barton, NSW</td>
<td>ALP</td>
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<td>Macfarlane, Hon. Ian Elgin</td>
<td>Groom, Qld</td>
<td>LP</td>
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<td>McKew, Hon. Maxine Margaret</td>
<td>Bennelong, NSW</td>
<td>ALP</td>
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<td>Jagajaga, Vic</td>
<td>ALP</td>
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<td>Forrest, WA</td>
<td>LP</td>
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<td>Greenway, NSW</td>
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<td>McPherson, Qld</td>
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<td>Banks, NSW</td>
<td>ALP</td>
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<td>Indi, Vic</td>
<td>LP</td>
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<td>Morrison, Scott John</td>
<td>Cook, NSW</td>
<td>LP</td>
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<td>Moylan, Hon. Judith Eleanor</td>
<td>Pearce, WA</td>
<td>LP</td>
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<td>Lowe, NSW</td>
<td>ALP</td>
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<td>Neal, Belinda Jane</td>
<td>Robertson, NSW</td>
<td>ALP</td>
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<td>Nelson, Hon. Brendan John</td>
<td>Bradfield, NSW</td>
<td>LP</td>
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<tr>
<td>Members</td>
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<td>Party</td>
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<tr>
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<td>------------</td>
<td>-------</td>
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<td>Neville, Paul Christopher</td>
<td>Hinkler, Qld</td>
<td>Nats</td>
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<td>Oakshott, Robert James Murray</td>
<td>Lyne, NSW</td>
<td>Ind</td>
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<td>O’Connor, Hon. Brendan Patrick John</td>
<td>Gorton, Vic</td>
<td>ALP</td>
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<tr>
<td>Owens, Julie Ann</td>
<td>Parramatta, NSW</td>
<td>ALP</td>
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<tr>
<td>Parke, Melissa</td>
<td>Fremantle, WA</td>
<td>ALP</td>
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<td>Pearce, Hon. Christopher John</td>
<td>Aston, Vic</td>
<td>LP</td>
</tr>
<tr>
<td>Perrett, Graham Douglas</td>
<td>Moreton, Qld</td>
<td>ALP</td>
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<tr>
<td>Plibersek, Hon. Tanya Joan</td>
<td>Sydney, NSW</td>
<td>ALP</td>
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<tr>
<td>Price, Hon. Leo Roger Spurway</td>
<td>Chifley, NSW</td>
<td>ALP</td>
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<tr>
<td>Pyne, Hon. Christopher Maurice</td>
<td>Sturt, SA</td>
<td>LP</td>
</tr>
<tr>
<td>Raguse, Brett Blair</td>
<td>Forde, Qld</td>
<td>ALP</td>
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<tr>
<td>Ramsey, Rowan Eric</td>
<td>Grey, SA</td>
<td>LP</td>
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<td>Randall, Don James</td>
<td>Canning, WA</td>
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<td>Rea, Kerry Marie</td>
<td>Bonner, Qld</td>
<td>ALP</td>
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<td>Oxley, Qld</td>
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<td>Rishworth, Amanda Louise</td>
<td>Kingston, SA</td>
<td>ALP</td>
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<td>Goldstein, Vic</td>
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<td>Robert, Stuart Rowland</td>
<td>Fadden, Qld</td>
<td>LP</td>
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<td>Roxon, Hon. Nicola Louise</td>
<td>Gellibrand, Vic</td>
<td>ALP</td>
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<tr>
<td>Rudd, Hon. Kevin Michael</td>
<td>Griffith, Qld</td>
<td>ALP</td>
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<td>Ruddock, Hon. Philip Maxwell</td>
<td>Berowra, NSW</td>
<td>LP</td>
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<tr>
<td>Saffin, Janelle Anne</td>
<td>Page, NSW</td>
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<td>Schultz, Albert John</td>
<td>Hume, NSW</td>
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<td>Maranoa, Qld</td>
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<td>Barker, SA</td>
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<td>Braddon, Tas</td>
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<td>Casey, Vic</td>
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<td>Boothby, SA</td>
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<td>Murray, Vic</td>
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<td>Nats</td>
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<td>O’Connor, WA</td>
<td>LP</td>
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<td>Hughes, NSW</td>
<td>LP</td>
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<tr>
<td>Vamvakinou, Maria</td>
<td>Calwell, Vic</td>
<td>ALP</td>
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</tbody>
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Members of the House of Representatives

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<thead>
<tr>
<th>Members</th>
<th>Division</th>
<th>Party</th>
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<tbody>
<tr>
<td>Washer, Malcolm James</td>
<td>Moore, WA</td>
<td>LP</td>
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<tr>
<td>Windsor, Anthony Harold Curties</td>
<td>New England, NSW</td>
<td>Ind</td>
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<tr>
<td>Wood, Jason Peter</td>
<td>La Trobe, Vic</td>
<td>LP</td>
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<tr>
<td>Zappia, Tony</td>
<td>Makin, SA</td>
<td>ALP</td>
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PARTY ABBREVIATIONS
ALP—Australian Labor Party; LP—Liberal Party of Australia; Nats—The Nationals; Ind—Independent

Heads of Parliamentary Departments
Clerk of the Senate—H Evans
Clerk of the House of Representatives—IC Harris AO
Secretary, Department of Parliamentary Services—A Thompson
<table>
<thead>
<tr>
<th>Position</th>
<th>Minister/Leader</th>
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<tbody>
<tr>
<td>Prime Minister</td>
<td>Hon. Kevin Rudd, MP</td>
</tr>
<tr>
<td>Deputy Prime Minister, Minister for Education, Minister for Employment and Workplace Relations and Minister for Social Inclusion</td>
<td>Hon. Julia Gillard, MP</td>
</tr>
<tr>
<td>Treasurer</td>
<td>Hon. Wayne Swan MP</td>
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<tr>
<td>Minister for Immigration and Citizenship and Leader of the Government in the Senate</td>
<td>Senator Hon. Chris Evans</td>
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<tr>
<td>Special Minister of State, Cabinet Secretary and Vice President of the Executive Council</td>
<td>Senator Hon. John Faulkner</td>
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<tr>
<td>Minister for Finance and Deregulation</td>
<td>Hon. Lindsay Tanner MP</td>
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<tr>
<td>Minister for Trade</td>
<td>Hon. Simon Crean MP</td>
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<tr>
<td>Minister for Foreign Affairs</td>
<td>Hon. Stephen Smith MP</td>
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<tr>
<td>Minister for Defence</td>
<td>Hon. Joel Fitzgibbon MP</td>
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<tr>
<td>Minister for Health and Ageing</td>
<td>Hon. Nicola Roxon MP</td>
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<tr>
<td>Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>Hon. Jenny Macklin MP</td>
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<tr>
<td>Minister for Infrastructure, Transport, Regional Development and Local Government and Leader of the House</td>
<td>Hon. Anthony Albanese MP</td>
</tr>
<tr>
<td>Minister for Broadband, Communications and the Digital Economy and Deputy Leader of the Government in the Senate</td>
<td>Senator Hon. Stephen Conroy</td>
</tr>
<tr>
<td>Minister for Innovation, Industry, Science and Research</td>
<td>Senator Hon. Kim Carr</td>
</tr>
<tr>
<td>Minister for Climate Change and Water</td>
<td>Senator Hon. Penny Wong</td>
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<tr>
<td>Minister for the Environment, Heritage and the Arts</td>
<td>Hon. Peter Garrett AM, MP</td>
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<tr>
<td>Attorney-General</td>
<td>Hon. Robert McClelland MP</td>
</tr>
<tr>
<td>Minister for Human Services and Manager of Government Business in the Senate</td>
<td>Senator Hon. Joe Ludwig</td>
</tr>
<tr>
<td>Minister for Agriculture, Fisheries and Forestry</td>
<td>Hon. Tony Burke MP</td>
</tr>
<tr>
<td>Minister for Resources and Energy and Minister for Tourism</td>
<td>Hon. Martin Ferguson AM, MP</td>
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</tbody>
</table>

[The above ministers constitute the cabinet]
RUDD MINISTRY—continued

Minister for Home Affairs                  Hon. Bob Debus MP
Assistant Treasurer and Minister for Competition Policy and
Consumer Affairs                          Hon. Chris Bowen MP
Minister for Veterans’ Affairs             Hon. Alan Griffin MP
Minister for Housing and Minister for the Status of Women
Minister for Employment Participation     Hon. Tanya Plibersek MP
Minister for Defence Science and Personnel Hon. Brendan O’Connor MP
Minister for Small Business, Independent Contractors and
the Service Economy and Minister Assisting the Finance
Minister on Deregulation                   Hon. Dr Craig Emerson MP
Minister for Superannuation and Corporate Law Senator Hon. Nick Sherry
Minister for Ageing                       Hon. Justine Elliot MP
Minister for Youth and Minister for Sport  Hon. Kate Ellis MP
Parliamentary Secretary for Early Childhood Education and
Childcare                                  Hon. Maxine McKew MP
Parliamentary Secretary for Defence Procurement Hon. Greg Combet AM, MP
Parliamentary Secretary for Defence Support Hon. Dr Mike Kelly AM, MP
Parliamentary Secretary for Regional Development and
Northern Australia                         Hon. Gary Gray AO, MP
Parliamentary Secretary for Disabilities and Children’s Services
Parliamentary Secretary for International Development Assistance
Parliamentary Secretary for Pacific Island Affairs Hon. Duncan Kerr MP
Parliamentary Secretary to the Prime Minister Hon. Anthony Byrne MP
Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion Senator Hon. Ursula Stephens
Parliamentary Secretary to the Minister for Trade Hon. John Murphy MP
Parliamentary Secretary to the Minister for Health and Ageing Senator Hon. Jan McLucas
Parliamentary Secretary for Multicultural Affairs and Settlement Services Hon. Laurie Ferguson MP
**SHADOW MINISTRY**

<table>
<thead>
<tr>
<th>Position</th>
<th>Member</th>
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<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>The Hon Malcolm Turnbull MP</td>
</tr>
<tr>
<td>Shadow Treasurer and Deputy Leader of the Opposition</td>
<td>The Hon Julie Bishop MP</td>
</tr>
<tr>
<td>Shadow Minister for Trade, Transport, Regional Development and Local Government and Leader of The Nationals</td>
<td>The Hon Warren Truss MP</td>
</tr>
<tr>
<td>Shadow Minister for Broadband, Communications and the Digital Economy and Leader of the Opposition in the Senate</td>
<td>Senator the Hon Nick Minchin</td>
</tr>
<tr>
<td>Shadow Minister for Innovation, Industry, Science and Research and Deputy Leader of the Opposition in the Senate</td>
<td>Senator the Hon Eric Abetz</td>
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<tr>
<td>Shadow Minister for Infrastructure and COAG and Shadow Minister Assisting the Leader on Emissions Trading Design</td>
<td>The Hon Andrew Robb AO, MP</td>
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<tr>
<td>Shadow Minister for Foreign Affairs and Manager of Opposition Business in the Senate</td>
<td>Senator the Hon Helen Coonan</td>
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<tr>
<td>Shadow Minister for Finance, Competition Policy and Deregulation and Manager of Opposition Business in the House</td>
<td>The Hon Joe Hockey MP</td>
</tr>
<tr>
<td>Shadow Minister for Energy and Resources</td>
<td>The Hon Ian Macfarlane MP</td>
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<tr>
<td>Shadow Minister for Families, Housing, Community Services and Indigenous Affairs</td>
<td>The Hon Tony Abbott MP</td>
</tr>
<tr>
<td>Shadow Special Minister of State and Shadow Cabinet Secretary</td>
<td>Senator the Hon Michael Ronaldson</td>
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<tr>
<td>Shadow Minister for Human Services and Deputy Leader of The Nationals</td>
<td>Senator the Hon Nigel Scullion</td>
</tr>
<tr>
<td>Shadow Minister for Climate Change, Environment and Water</td>
<td>The Hon Greg Hunt MP</td>
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<tr>
<td>Shadow Minister for Health and Ageing</td>
<td>The Hon Peter Dutton MP</td>
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<tr>
<td>Shadow Minister for Defence</td>
<td>Senator the Hon David Johnston</td>
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<tr>
<td>Shadow Minister for Education, Apprenticeships and Training</td>
<td>The Hon Christopher Pyne MP</td>
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<tr>
<td>Shadow Attorney-General</td>
<td>Senator the Hon George Brandis SC</td>
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<tr>
<td>Shadow Minister for Agriculture, Fisheries and Forestry</td>
<td>The Hon John Cobb MP</td>
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<tr>
<td>Shadow Minister for Employment and Workplace Relations</td>
<td>Mr Michael Keenan MP</td>
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<tr>
<td>Shadow Minister for Immigration and Citizenship</td>
<td>The Hon Dr Sharman Stone</td>
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<tr>
<td>Shadow Minister for Small Business, Independent Contractors, Tourism and the Arts</td>
<td>Mr Steven Ciobo</td>
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</tbody>
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[The above constitute the shadow cabinet]
SHADOW MINISTRY—continued

Shadow Minister for Financial Services, Superannuation and Corporate Law
The Hon Chris Pearce MP

Shadow Assistant Treasurer
The Hon Tony Smith MP

Shadow Minister for Sustainable Development and Cities
The Hon Bruce Billson MP

Shadow Minister for Competition Policy and Consumer Affairs and Deputy Manager of Opposition Business in the House
Mr Luke Hartsuyker MP

Shadow Minister for Housing and Local Government
Mr Scott Morrison

Shadow Minister for Ageing
Mrs Margaret May MP

Shadow Minister for Defence Science and Personnel and Assisting Shadow Minister for Defence
The Hon Bob Baldwin MP

Shadow Minister for Veterans’ Affairs
Mrs Louise Markus MP

Shadow Minister for Early Childhood Education, Childcare, Status of Women and Youth
Mrs Sophie Mirabella MP

Shadow Minister for Justice and Customs
The Hon Sussan Ley MP

Shadow Minister for Employment Participation, Training and Sport
Dr Andrew Southcott MP

Shadow Parliamentary Secretary for Northern Australia
Senator the Hon Ian Macdonald

Shadow Parliamentary Secretary for Roads and Transport
Mr Don Randall MP

Shadow Parliamentary Secretary for Regional Development
Mr John Forrest MP

Shadow Parliamentary Secretary for International Development Assistance and Shadow Parliamentary Secretary for Indigenous Affairs
Senator Marise Payne

Shadow Parliamentary Secretary for Energy and Resources
Mr Barry Haase MP

Shadow Parliamentary Secretary for Disabilities, Carers and the Voluntary Sector
Senator Cory Bernardi

Shadow Parliamentary Secretary for Water Resources and Conservation
Mr Mark Coulton MP

Shadow Parliamentary Secretary for Health Administration
Senator Mathias Cormann

Shadow Parliamentary Secretary for Defence
The Hon Peter Lindsay MP

Shadow Parliamentary Secretary for Education
Senator the Hon Brett Mason

Shadow Parliamentary Secretary for Justice and Public Security
Mr Jason Wood MP

Shadow Parliamentary Secretary for Agriculture, Fisheries and Forestry
Senator the Hon Richard Colbeck

Shadow Parliamentary Secretary for Immigration and Citizenship and Shadow Parliamentary Secretary Assisting the Leader in the Senate
Senator Concetta Fierravanti-Wells
CONTENTS

WEDNESDAY, 11 FEBRUARY

Chamber

Business—

Consideration of Private Members’ Business—Report................................................................. 865

Excise Tariff Amendment (2009 Measures No. 1) Bill 2009—

First Reading ........................................................................................................................................ 868
Second Reading ...................................................................................................................................... 868

Customs Tariff Amendment (2009 Measures No. 1) Bill 2009—

First Reading ........................................................................................................................................ 873
Second Reading ...................................................................................................................................... 873

Tariff Proposals—

Customs Tariff Proposal (No. 1) 2009................................................................................................. 873

Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009—

First Reading ........................................................................................................................................ 874
Second Reading ...................................................................................................................................... 874

Committees—

Intelligence and Security Committee—Report......................................................................................... 877

Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008—

Second Reading ..................................................................................................................................... 880

Business—

Suspension of Standing and Sessional Orders ....................................................................................... 884

Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008—

Second Reading ..................................................................................................................................... 886

Condolences—

Victorian Bushfire Victims—Report from Main Committee................................................................. 931

Auditor-General’s Reports—

Report No. 21 of 2008-09......................................................................................................................... 950

Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008—

Second Reading ..................................................................................................................................... 950
Third Reading .......................................................................................................................................... 967

Committees—

Australian Crime Commission Committee............................................................................................... 967

Public Accounts and Audit Committee—Membership............................................................................. 967

Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008—

Second Reading ..................................................................................................................................... 967
Third Reading .......................................................................................................................................... 972

Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008—

Second Reading ..................................................................................................................................... 972

Adjournment—

Ryan Electorate: Meiers Road.................................................................................................................. 1002
Woodford Folk Festival.......................................................................................................................... 1003
Responsibility.......................................................................................................................................... 1004
Dr Chris Towie ...................................................................................................................................... 1005
Mayo Electorate: Bushfires.................................................................................................................... 1006
Werriwa Electorate: Southern Sydney Freight Line................................................................................ 1008
La Trobe Electorate: Tourism ................................................................................................................ 1009

Notices .................................................................................................................................................... 1009
CONTENTS—continued

Main Committee
Constituency Statements—
  SMS Subscription Schemes.................................................................................. 1010
  Apology to Australia’s Indigenous Peoples: First Anniversary................................. 1011
  Queensland Floods: Australian Defence Force ...................................................... 1012
  Kingston Electorate: Sportspeople ......................................................................... 1012
  Victorian Bushfires ................................................................................................. 1013
  Education.................................................................................................................. 1014
  Victorian Bushfires ................................................................................................. 1014
  Sister Kerry Macdermott .......................................................................................... 1015
  Rifleman Stuart Nash ................................................................................................ 1016
  Brisbane Electorate: Ashgrove Sports Ground Redevelopment............................... 1017

Condolences—
  Victorian Bushfire Victims ..................................................................................... 1018

Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008—
  Second Reading........................................................................................................ 1055

Condolences—
  Victorian Bushfire Victims ..................................................................................... 1067

Questions In Writing
  National Rental Affordability Scheme—(Question No. 408). ..................................... 1097
  National Rental Affordability Scheme—(Question No. 409). ..................................... 1098
  National Rental Affordability Scheme—(Question No. 410). ..................................... 1098
  National Housing Supply Council—(Question No. 411) .......................................... 1098
  National Housing Supply Council—(Question No. 412) .......................................... 1099
  Visas—(Question No. 432) ...................................................................................... 1100
  Taekwondo—(Question No. 522). .......................................................................... 1101
Wednesday, 11 February 2009

The SPEAKER (Mr Harry Jenkins) took the chair at 9.00 am and read prayers.

BUSINESS
Consideration of Private Members’ Business
Report
Mr PRICE (Chifley) (9.01 am)—I present the report of the recommendations of the whips relating to committee and delegation reports and private members’ business on Monday, 23 February 2009. Copies of the report have been placed on the table.

The report read as follows—

Items recommended for Main Committee (6.55 to 8.30 pm)
PRIVATE MEMBERS’ BUSINESS
Notices
1 MRS MOYLAN: To move:
That the House:

(1) notes that:

(a) on 20 December 2006 a landmark decision was made by the United Nations General Assembly to adopt Resolution 61/225;

(b) the Resolution recognised the risks that diabetes and its complications pose to families, Member States and world health and was adopted by consensus;

(c) the Resolution declared 14 November as World Diabetes Day;

(d) this resolution joins HIV/AIDS and Autism as the only diseases having their own resolutions and declared days of observation;

(e) an estimated 246 million people worldwide, in the age range from 20 to 79 years, have diabetes and this number is expected to grow by 44 per cent, reaching 380 million by 2025;

(f) each year 3.8 million adults die from diabetes related illnesses, representing one death every 10 seconds;

(g) an estimated 7.4 per cent of the Australian population has diabetes according to an AusDiab study in 2000; and

(h) according to an AusDiab study, in 2002 the social and medical costs of diabetes in Australia were estimated to total $6 billion annually;

(2) acknowledges the work of Professor Martin Silink AM MD FRACP, as President of the International Diabetes Federation and his colleagues world wide for their work to ensure that this United Resolution was carried;

(3) recognises that:

(a) in the catalogue of chronic illness, few conditions would be more needful of attention than the scourge of diabetes;

(b) the prevention and management of diabetes are the responsibility of the whole of society;

(c) parliaments should play a leading role in promoting community education and implementing effective policies and health-care for sufferers of this world wide scourge;

(d) left undiagnosed and untreated, diabetes dramatically affects quality of life and shortens life span and its malevolent course inevitably leads to many serious associated health complications including heart disease, stroke, renal failure, limb amputation and blindness; and

(e) unless national governments act to deliver comprehensive policies, the implications for health budgets will be calamitous; and

(4) calls on the Government to:

(a) continue to make diabetes a National Health Priority;

(b) commission a Productivity Commission Report into the real and increasing cost of diabetes to the community;

(c) adequately fund best practice medicine for the treatment of diabetes; and

(d) continue to promote healthy lifestyle programs, especially targeted to children and young people.
Time allotted—25 minutes.

Speech time limits—
Mrs Moylan—5 minutes.

First Government Member speaking—5 minutes.

Other Member—5 minutes each.

[Minimum number of proposed Members speaking = 5 x 5 mins]

The Whips recommend that consideration of this should continue on a future day.

2 MRS D’ATH: To move:
That the House:

(1) congratulates the Rudd Government on the delivery of Round Two of the computers in schools program which will provide 141,600 new computers to 1,394 secondary schools across Australia, worth more than $141 million;

(2) notes that the Rudd Government has already invested $116.82 million for computers in schools during Round One in 2008 and that this latest round will bring the ratio of computers to students to 1:2 for all students in years 9 to 12 in those secondary schools who applied for and were granted computers;

(3) notes that the Petrie electorate will receive 1,267 new computers and $1.273 million in funding to the schools in the Petrie electorate in Round Two, in addition to the computers provided in Round One;

(4) acknowledges the ongoing commitment of the Rudd Government to achieve a 1:1 computer to student ratio for all Year 9 to 12 students across the country by 2011;

(5) recognises that:
(a) the future of this country lies within our young people and that as a government, we must invest in our schools to invest in our future;
(b) the commitment made by the Rudd Government through the COAG Agreement to deliver a further $807 million for legitimate costs to install and maintain the computers and costs associated with subsequent rounds; and

(6) congratulates the Rudd Government for delivering on its Education Revolution and the commitment we made to the Australian people in 2007.

Time allotted—20 minutes.

Speech time limits—
Mrs D’Ath—5 minutes.

First Opposition Member speaking—5 minutes.

Other Member—5 minutes each.

[Minimum number of proposed Members speaking = 4 x 5 mins]

The Whips recommend that consideration of this should continue on a future day.

3 MR COULTON: To move:
That the House:

(1) notes that children living in isolated regions of Australia face unique challenges when trying to access educational services; and

(2) calls on the Government to provide the additional assistance and support that would enable isolated children and students to access a full range of educational services from early childhood to tertiary education.

Time allotted—25 minutes.

Speech time limits—
Mr Coulton—5 minutes.

First Government Member speaking—5 minutes.

Other Member—5 minutes each.

[Minimum number of proposed Members speaking = 5 x 5 mins]

The Whips recommend that consideration of this should continue on a future day.

4 MR RAGUSE: To move:
That the House:

(1) recognises the importance of National Adoption Awareness Week and the significance of encouraging adoptees, adoptive parents and biological parents to opening and continuing the dialogue on adoption in Australia and encouraging people to discuss how adoption has impacted on their lives; and
(2) calls on the governments at the State and Federal levels to support all participants in the adoption process.

Time allotted—remaining private Members' business time prior to 8.30 pm

Speech time limits—
Mr Raguse—5 minutes.

First Opposition Member speaking—5 minutes.

Other Member—5 minutes each.

[Minimum number of proposed Members speaking = 5 x 5 mins]

The Whips recommend that consideration of this should continue on a future day.

Items recommended for House of Representatives Chamber (8.40 to 9.30 pm)

COMMITTEE AND DELEGATION REPORTS

Presentation and statements

1 PARLIAMENTARY JOINT COMMITTEE ON THE AUSTRALIAN COMMISSION FOR LAW ENFORCEMENT INTEGRITY

Report of the inquiry into State-based law enforcement integrity agencies.

The Whips recommend that statements on the report may be made— all statements to conclude by 8.45 pm

Speech time limits—
Ms Parke—5 minutes

[Minimum number of proposed Members speaking =1 x 5 mins]

2 PARLIAMENTARY JOINT COMMITTEE ON CORPORATIONS AND FINANCIAL SERVICES

Statutory Oversight of the Australian Securities and Investments Commission

The Whips recommend that statements on the report may be made—all statements to conclude by 8.50 pm

Speech time limits—
Mr Ripoll—5 minutes

[Minimum number of proposed Members speaking =1 x 5 mins]

PRIVATE MEMBERS’ BUSINESS

Notices

1 MS LEY: To move:

That the House:

(1) supports long term viability of regional and rural medical practices, hospitals and services;

(2) notes with concern the failure of state governments to provide adequate health services for Australians living in regional, rural and remote areas, particularly in relation to cross border health;

(3) acknowledges the Royal Flying Doctor Service and the significant contribution it makes by providing aeromedical emergency and primary health care services to people who live, work and travel in regional and remote Australia;

(4) calls on the Australian Government to eliminate inequality in healthcare access and services experienced by those living in rural and remote areas by:

(a) increasing the recruitment and retention of rural medical practitioners and health care professionals;

(b) assisting Australians who live in regional, rural and remote areas with the cost of travel to specialist medical appointments in capital cities and regional centres; and

(c) providing adequate funding to maintain and expand small rural hospitals and health services and their maternity and other procedural services.

Time allotted—20 minutes

Speech time limits—
Ms Ley—5 minutes.

First Government Member speaking—5 minutes.

[Minimum number of proposed Members speaking = 4 x 5 mins]

The Whips recommend that consideration of this should continue on a future day.
MR CLARE: To move:

That the House:

(1) recognises the heightened importance of financial literacy and financial counselling given the global economic recession and its impact on the Australian economy;

(2) supports the actions the Government has taken to improve financial literacy and provide additional financial counselling services for people struggling to make ends meet; and

(3) calls on Australian banks and financial institutions to assist Australian families by providing additional support for financial literacy programs and financial counselling.

On 26 April 2008, the government gazetted increases to the rate of excise and excise-equivalent customs duty applying on such beverages from $39.36 to $66.67 per litre of alcohol content. I tabled the excise and customs tariff proposals in the House of Representatives on 13 May 2008.

The Australian Taxation Office and Australian Customs Service have been collecting excise and excise-equivalent customs duty at the higher rate since 27 April 2008.

The amendments that I introduce today seek to confirm in legislation that higher rate of taxation for alcopops.

The amendments set out in the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 will alter the schedule to the Excise Tariff Act 1921 for other excisable beverages not exceeding 10 per cent by volume of alcohol from $39.36 to $66.67 per litre of alcohol content on and from 27 April 2008.

This rate is subject to indexation on a half-yearly basis and is increased in February and August each year.

Full details of the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 are contained in the explanatory memorandum.

As most members are aware, this measure—reversing a serious mistake made by the Liberals in 2000—is backed by research, backed by health experts, and backed by the evidence.

The increase in the rate applying to alcopops reflects the government’s concern at the growth in alcopop consumption, alongside their appeal to young and underage drinkers—and the role that they play in encouraging binge drinking.

I would like to begin by focusing on the epidemic of binge drinking. I will then address the role of alcopops in this; the mistake made by the Liberals in 2000 and the consequences of that mistake; what we have done
to fix it, and what that action has achieved; the position of public health experts; and the range of measures we are implementing to tackle binge drinking.

No-one who reads the newspaper or watches television can be unaware of the problems caused by binge drinking. Community leaders, police and health experts alike agree that action needs to be taken.

Nevertheless, the opposition has doubted that binge drinking is an issue, so let me address that first of all.

In any given week, approximately one in ten 12- to 17-year-olds are binge drinking or drinking at risky levels.

Almost 20,000 girls between the ages of 12 to 15 drink daily or weekly.

The number of young women aged 18 to 24 being admitted to hospitals because of alcohol has doubled in eight years.

In a year, more than three-quarters of a million Australians are physically abused by persons under the influence of alcohol, and in 2004-05 the social cost of alcohol misuse in Australia was estimated to be about $15.3 billion.

Last year, NSW Police Commissioner Andrew Scipione estimated:

… 70 per cent of every police engagement with a member of the community in the streets of NSW has alcohol as a factor.

And on Monday in the West Australian it was reported that girls are turning increasingly to violence and crime, with new figures showing a 70 per cent rise in offences by females 18 and under in the past three years. Western Australian Police have warned that a yobbo culture has developed among young girls, similar to young men, and police are being inundated with reports of drunken, antisocial behaviour by women.

Acting Inspector Cameron Taylor, from the central metropolitan district, said:

There seems to have been a change in social standards and it’s become more acceptable and normalised for girls to drink and get aggressive … Quite often when officers are dealing with males they will be confronted by females who are abusive and aggressive, which as recently as five years ago was much less likely to occur.

So we know that binge drinking is a problem. Parents know it is a problem. Police know it is a problem. Health experts know it is a problem.

But the member for Warringah, on the other hand, has described concerns about binge drinking as ‘a beat-up’. The member for North Sydney has urged people not to ‘overplay it’.

These are irresponsible attitudes, and they inform the irresponsible approach on the other side of the House to this alcopops measure.

What much of the debate over the last 12 months has centred on is the role of alcopops in binge drinking—with the alcopops industry and the Liberals on one side, and the health experts and the Labor government on the other.

So let me take the House through the evidence.

Alcopops are targeted directly at young people and underage drinkers. This is simply indefensible. By using bright colours and sweet flavours, alcopops companies aim to hook young people on drinking early in their lives.

Research shows that alcopops expose young and inexperienced drinkers to higher than normal risk because they are more likely to make false judgments about the product they are consuming.

But with all that going on, in the year 2000, the Liberals made a terrible decision, and that was to give the alcopops industry a tax break.

This mistake has had consequences.
Between the year 2000 and 2004, the percentage of female drinkers aged 15 to 17 who had consumed alcopops at their last drinking occasion increased from 14 per cent to 62 per cent.

For females drinking at risky and high levels in 2004, 78 per cent drank alcopops on their last drinking occasion. That figure had increased from 21 per cent in 2000.

The industry itself admits that their sales grew by 250 per cent since the year 2000.

So the Rudd government made the entirely sensible decision to reverse the Liberals’ mistake.

The government decision leads to the logical situation that all spirits—bottled or pre-mixed—are taxed at the same rate.

As a result, the price of most alcopops has increased.

Research shows us that price increases can play an important role in tackling binge drinking, and that higher prices lead to a reduction in consumption, especially amongst young people.

In fact, an independent expert report, commissioned by the Howard government, found that:

... alcohol excise taxes are capable of being designed explicitly to target the types of alcohol known to be the subject of abuse (for example, high strength beer and alcopops) ...

For example, studies show that young people are more influenced by the price of alcohol so that increasing the tax rate on alcoholic drinks which are specifically targeted at the youth market ... is likely to be effective.

And as a result:

There would appear to be strong justification for the April 2008 increase in the Australian tax on pre-mixed drinks ... by 70 per cent.

And, indeed, Collins’s and Lapsley’s faith has been borne out by the empirical evidence that we have in Australia.

Tax office figures drawn from the first nine months of this measure show that alcopops sales have dropped by 35 per cent compared to the previous year.

This is significant. What is more, it is far beyond our modest predictions. When this measure was first introduced, modelling predicted that it would slow the astronomical growth of alcopops sales, which would have been an achievement in itself.

In fact, alcopops sales have slumped—brining overall spirits sales with them. Despite a smaller increase in full-strength spirits sales, overall spirits sales have fallen by almost eight per cent.

It is perhaps not a surprise, then, that despite the opposition of the alcopops industry and the Liberal Party, health experts have supported this measure in droves.

Let me quote some of them for the House:

**Australian Drug Foundation**

The CEO, John Rogerson, says:

This tax fixes a problem started with the introduction of the GST and shows that the Government is serious about tackling alcohol problems in our community.

**Australian National Council on Drugs**

Dr John Herron, a former Liberal minister and former AMA president, wrote in a letter to the Prime Minister:

I am writing on behalf of the Australian National Council on Drugs (ANCD) to congratulate your government on the recent announcements regarding alcohol, particularly the public personal support you are providing for the encouraging work undertaken by the Minister for Health & the Parliamentary Secretary for Health.

... ... ...

Utilising the taxation system is one of the most effective measures we have for reducing alcohol
related harm and problems for both individuals and communities.

**Alcohol and other Drugs Council of Australia (ADCA)**

David Templeman, the CEO of the Alcohol and other Drugs Council of Australia, said that ‘this initiative clearly recognised the problems created by the excessive consumption of RTDs which were attractive to the youth market’.

**Public Health Association of Australia**

The Public Health Association’s Mike Daube says:

There is now dramatic evidence showing that young women are out-drinking their male counterparts and unfortunately many of them drink to get drunk … … … …

We know that price is the most effective single measure in reducing alcohol consumption, especially by young people. This increase will make a real dent in one of our biggest current social problems.

So that is the alcopops measure—backed by research, backed by health experts and backed by the evidence.

The alcopops industry has been ruthless in trying to undermine these facts, motivated, of course, by a desire to protect their profits. Before explaining the array of measures that we are taking to tackle binge drinking, I would like to briefly address some of the myths they have attempted to propagate.

Firstly, the allegation that ‘there is no evidence the measure is working’. This is absolutely wrong. As I have said, figures from the Australian Taxation Office—the most reliable figures available—show that the sales of alcopops have fallen significantly.

Even when you take into account a rise in the sales of full-strength spirits, total spirits sales have fallen by almost eight per cent. As I have explained, that is a significant drop, and well beyond initial predictions.

The industry has tried time and again to confuse this issue, arguing that annual seasonal variations, which occur year in, year out, show trends that they simply do not show.

Secondly, the allegation that ‘because some young people are now drinking full-strength spirits, they are more likely to drink more without meaning to’. In fact, research shows that young and inexperienced drinkers who drink alcopops are at higher than normal risk because alcopops disguise the taste of alcohol, which may lead to false judgments.

Thirdly, the allegation that ‘the measure has failed because alcopops producers are now producing beer-based alcopops to get around this measure’. In fact, it seems this is exactly what all companies do when faced with a tax measure that is impacting on their bottom line—try to find some way to get around it. This is one of the strongest signs yet of the measure’s success. What is more, we are looking closely at action to block these companies’ shameful attempts to put profit above the health of young people.

Finally, the allegation that ‘the figures show that there is not a binge drinking problem’. This is an argument that the Liberal Party have also tried to make, but again, it is just wrong, as I have already explained in the figures at the start of my speech.

I understand that many people in the community, and in the parliament, are keen to ensure that the alcopops measure is not the only measure the government is introducing to tackle alcohol abuse.

So let me offer my reassurances, in the form of some concrete facts.

The alcopops measure is just one part—albeit an important part—of the government’s comprehensive approach to tackling binge drinking.
Early last year, the Prime Minister announced the first steps in our National Binge Drinking Strategy. The strategy includes $53.5 million to address binge drinking among young people. Elements of the package include:

- $14.4 million to invest in community level initiatives to confront the culture of binge drinking, particularly in sporting organisations. Six major sporting codes have now signed up to that code of conduct—and I note that the Minister for Sport is in the chamber and should be thanked for the work that she is doing in this area—
- $19.1 million to intervene earlier to assist young people and ensure that they assume personal responsibility for their binge drinking; and
- a $20 million advertising campaign that confronts young people with the costs and consequences of binge drinking.

In 2008 I launched that campaign, the government’s Don’t Turn a Night Out into a Nightmare campaign, to confront young people with the dangers and consequences of binge drinking. The ads are gritty and hard-hitting, for which the government makes no apology.

When I announced this measure, I made a clear statement as to how the revenue would be used: ‘This change will see the single biggest investment ever by a Commonwealth government into preventative health measures.’

So it should not have come as a surprise to anyone when at the final meeting for COAG last year the government announced the single largest investment ever made by an Australian government in preventative health, to support a range of programs and interventions to reduce the impact of chronic illness on the community—$872 million. This is all new money.

Tackling alcohol abuse will figure highly in this national partnership.

What is more, the national Preventative Health Taskforce is currently well down the track in developing a National Preventative Health Strategy with alcohol as one of its top three priorities.

Emerging from that strategy will be further, significant initiatives to tackle alcohol abuse.

The alcopops measure will raise $1.6 billion from 27 April 2008 and over the forward estimates, somewhat less than the original estimate at the time of the last budget. This is a clear indication that the measure has been working.

Note, though, our new investments, as I have said—$872 million into the national Preventative Health Partnership, the single largest Commonwealth investment in prevention ever, as foreshadowed at the time of the original alcopops announcement; $53 million already allocated to the National Binge Drinking Strategy; and more to come via the National Preventative Health Strategy. It is clear that this government is serious about binge drinking—far more serious than any government before it.

I might end with a brief note of sadness for the irresponsibility shown by those in the alcopops industry, and perhaps even more gallingly and surprisingly, those on the other side of the House.

The alcopops industry, for their part, have shown a flagrant disregard for the truth and reasoned public debate—I cannot do better than quote Michael Moore, the CEO of the Public Health Association of Australia, when he described the ‘sort of tactics of distorting facts and statistics that have been used by
some representatives of the distilled spirits industry to protect their own profits.’

What is worse is the Liberal Party have stood by them every step of the way.

Since this measure was announced, the Liberals and Nationals have opposed it. They have doubted the existence of the binge drinking problem—I specifically have mentioned the former minister for health and the former shadow minister for health.

Perhaps even worse, the Leader of the Opposition has thrown up his hands in surrender, suggesting that there is nothing to be done about binge drinking, and even praising ‘the enterprising ingenuity of the Australian drinker.’

The Liberals are standing with the alcopops industry as they attempt to protect their profits—at the expense of our young people.

This measure is working. It is backed by research, it is backed by health experts and it is backed by the evidence. It will enable us to make significant investments in prevention, and in tackling alcohol abuse. It should be supported.

When multibillion dollar companies develop products to hook underage drinkers on alcohol, by producing sweet, sugary drinks, then this is something that should be condemned—not rewarded with a tax break. I commend this measure to the House.

Debate (on motion by Mr Billson) adjourned.

TARIFF PROPOSALS

Customs Tariff Proposal (No. 1) 2009

Mr DEBUS (Macquarie—Minister for Home Affairs) (9.21 am)—In the terms of the printed proposal which is now being circulated to honourable members, I move:

Customs Tariff Proposal (No. 1) 2009.

The customs tariff proposal I have just tabled contains alterations to the Customs Tariff Act 1995, effective from 1 January 2009.
The proposal inserts a new item 41H into schedule 4 to the customs tariff. Item 41H will allow the duty-free entry of goods for use in the testing, quality control, manufacturing evaluation or engineering development of motor vehicles designed or engineered in Australia, but maybe manufactured overseas, by manufacturers registered under the Automotive Competitiveness and Investment Scheme. The item will also allow for duty-free entry of components for inclusion in such motor vehicles.

The duty-free entry of such goods will benefit local manufacturers of motor vehicles, reducing the costs involved in the design and engineering of new vehicles that may be built on global platforms. It will also encourage innovation and diversification in the local industry. I commend the proposal.

Debate (on motion by Mr Billson) adjourned.

HIGHER EDUCATION LEGISLATION AMENDMENT (STUDENT SERVICES AND AMENITIES, AND OTHER MEASURES) BILL 2009

First Reading

Bill and explanatory memorandum presented by Ms Kate Ellis.

Bill read a first time.

Second Reading

Ms KATE ELLIS (Adelaide—Minister for Youth and Minister for Sport) (9.23 am)—I move:

That this bill be now read a second time.

I rise today to deliver on the government’s election commitment to rebuild important university student services and to also ensure that students have representation on campus.

The Higher Education Legislation Amendment (Student Services and Amenities, and Other Measures) Bill 2009 outlines a robust and balanced solution that will not only help ensure the delivery of quality student services—it will also help, once and for all, to secure their future.

The government has consistently committed to ensuring that students have access to vital campus services and we make no apology for honouring this commitment here today.

Extensive consultations with students and the universities in 2008 found that $170 million had been stripped from funding for services and amenities, resulting in the decline and in some instances complete closure of health, counselling, employment, childcare and welfare support services.

These are fundamental services that help students to navigate university life, achieve success in their studies and participate in sport and the university community.

Subsequently, it is students who are being forced to pay the price of the $170 million—both directly and indirectly.

Through the consultations some universities indicated that they were forced to redirect funding out of research and teaching budgets to support services and amenities that would otherwise have been cut, while others highlighted price hikes for parking, food and child care.

This demonstrated that students were paying the price for the removal of government support for services and amenities on campus.

Universities Australia, the peak body representing the university sector, painted the picture clearly last year, stating:

Universities have struggled for years to prop up essential student services through cross-subsidisation from other parts of already stretched university budgets, to redress the damage that resulted from the Coalition Government’s disastrous Voluntary Student Unionism (VSU) legislation.
In its submission to the review, the Australian Olympic Committee noted that there had also been a serious impact on sport:

… the introduction of the VSU legislation has had a direct negative impact on the number of students (particularly women) participating in sport and, for the longer term, the maintenance and upgrading of sporting infrastructure and facilities and the retention of world class coaches.

The bill aims to support universities and students to help undo the damage.

The bill makes amendments to require higher education providers that receive Commonwealth Grant Scheme funding to comply from 2010 with new Student Services, Amenities Representation and Advocacy Guidelines.

This means that for the first time universities will be required to implement National Access to Services Benchmarks for all domestic Australian students—in line with the current benchmarks that already exist for our international students.

These important benchmarks will ensure that all Australian students are provided with information on, and access to, important health, welfare and financial services.

The bill also introduces for the first time National Student Representation and Advocacy Protocols to formally ensure that students have an opportunity to participate in university governance structures.

Let me be clear—the bill is not a return to compulsory student unionism.

Section 19.37(1) of the Higher Education Support Act 2003 (the act), which prohibits a provider from requiring a student to be a member of a student organisation, is unchanged.

The new National Student Representation and Advocacy Protocols help ensure students have access to advocacy support services to support student appeals, and vital help for students who may need extra assistance on matters that can be overwhelming and unfamiliar.

They also ensure that universities provide opportunities for democratic student representation, so that student views are taken into account during the decision-making process.

This is a value that is reflected in the democratic rights that underpin our nation and community.

Over and above these basic services, representation and advocacy rights, the bill will also provide universities with the option to implement a services fee from 1 July 2009, capped at a maximum of $250 per year to invest in quality support and advocacy services.

Universities that choose to levy a fee will be expected to consult with students on the nature of the services and amenities and enhanced advocacy that the fee would support.

To ensure that the fee is not a financial barrier, any university introducing the fee must also provide eligible students with the option of taking out a HECS-style loan under a new component of the Higher Education Loan Program—SA-HELP.

The Student Services and Amenity Fee Guidelines will specifically outline what the fee can be used to fund.

The guidelines will be finalised in consultation with the higher education sector and other key stakeholders and will be tabled as legislative instruments in partnership with this legislation.

In addition the bill prohibits universities from allowing the expenditure of any funds raised from a compulsory student services and amenities fee to support political parties, or support the election of a person to the Commonwealth, state or territory legislatures or to a local government body.
We believe that this is a balanced, practical solution that enables universities, students and the government to work in partnership to rebuild important student supports and services and ensure independent student representation and advocacy.

The bill also amends the act to provide enhanced protection of the privacy interests of Australian students and improves the efficiency and effectiveness of the allocation of student places and Commonwealth scholarships through the higher education system.

Tertiary admissions centres play an increasingly important role in the Australian higher education system.

They are the first contact for most people who apply to become university students.

Tertiary admissions centres add to the efficiency and productivity of the administration of the higher education system by centralising and coordinating admissions procedures on a state-wide basis.

The act does not currently refer to or acknowledge the role of these tertiary admissions centres.

This creates the potential for aspects of the necessary functions performed by the organisations to appear to be unauthorised under the act.

This bill includes amendments that ensure that the roles and responsibilities of tertiary admissions centres are recognised in the legislation.

In particular, the bill amends the act to give tertiary admissions centres the same status and duty of care as officers of a higher education provider regarding the processing of students’ personal information.

This will ensure that student information may be shared between the department, higher education providers, VET providers and tertiary admissions centres as appropriate.

A student’s privacy will remain protected by the privacy protection provisions already in the act.

The amendments will assist tertiary admissions centres in continuing to play a positive role in the continuing development of efficient and smooth administration in the higher education system.

The bill will also ensure that students wanting to study diploma and above qualifications in the vocational education and training sector are able to access the training they choose without worrying about upfront fees.

According to the National Centre for Vocational Education Research, the number of students training in diploma and advanced diploma qualifications in the public vocational education and training sector has declined by 16 per cent in recent years: from 197,300 students in 2002 to 165,900 students in 2007.

This government is committed to broadening and increasing Australia’s skill levels, and increasing the number of completions at diploma and advanced diploma level is a key element of this commitment.

For this reason the bill includes amendments to allow for future expansion of the VET FEE-HELP scheme by allowing loan fees and criteria related to courses and providers to be specified in the guidelines that support the program.

VET FEE-HELP assists students studying diploma, advanced diploma, graduate certificate and graduate diploma courses by providing a loan for all or part of the tuition costs.

In 2009, eligible students can borrow up to $83,313 (or $104,142 for medicine, dentistry and veterinary science courses that lead to registration as practitioners in those fields) under FEE-HELP and VET FEE-HELP combined over their lifetime.
Loans are not subject to income and assets tests, and repayments do not commence until an individual’s income is above a minimum repayment threshold, which for 2008-09 is $41,594.

The availability of VET FEE-HELP is expected to significantly contribute to the Council of Australian Governments’ target to double the number of diploma and advanced diploma completions by 2020.

The first students to access VET FEE-HELP assistance will commence early this year.

These initiatives are all part of the government’s commitment to ensuring that higher education plays a leading role in equipping Australians with the knowledge and skills to make Australia a more productive and prosperous nation.

The government will continue to work in partnership with higher education providers and students, and take responsible action to ensure quality and sustainable student services and representation into the future.

This bill is balanced and a practical solution to rebuild important student support services and amenities.

It will also help to secure the future of universities and the critical role they have in Australia’s education future.

Debate (on motion by Mr Billson) adjourned.

COMMITTEES

Intelligence and Security Committee Report

Mr BEVIS (Brisbane) (9.35 am)—On behalf of the Parliamentary Joint Standing Committee on Intelligence and Security, I present the committee’s report entitled Review of the re-listing of Abu Sayyaf Group (ASG), Jamiat ul-Ansar (JuA) and Al-Qa’ida in Iraq (AQI).

Ordered that the report be made a parliamentary paper.

Mr BEVIS—by leave—On behalf of the Parliamentary Joint Standing Committee on Intelligence and Security it is a privilege for me to once again present a report to this parliament, as with all the reports from this committee, that deals with matters of some serious significance.

The Abu Sayyaf Group, ASG, was initially listed as a terrorist organisation under the Criminal Code in 2002, following their listing by the United Nations Security Council. The committee first considered the listing of ASG in 2004. The ASG was re-listed on 5 November 2004 and on 1 November 2006. This is its third re-listing.

Jamiat ul-Ansar, JuA, was originally listed in 2002 under the same act, following the listing of that organisation by the United Nations Security Council. Once this requirement for listing was removed in March 2004, the JuA was re-listed in 2004 and 2007 under the amended Criminal Code 1995. This is the third re-listing of JuA.

Al-Qaeda in Iraq was previously listed in 2007 under the name Tanzim Qa’idat al-Jihad fi Bilad al-Rafidayn, TQJBR. Prior to this, TQJBR was listed in 2005. This will be the second re-listing since the initial listing in 2005.

The regulations were signed by the Governor-General on 31 October 2008. They were then tabled in the House of Representatives and the Senate on 10 November 2008. The disallowance period of 15 sitting days for the committee’s review of the listing began from the date of the tabling. Therefore the committee was required to report to the parliament by Monday of this week. The tabling of this report was, of course, postponed until today due to the Victorian bushfire disaster and the subsequent adjournment of the House, with which we are all familiar.
Notice of the inquiry was placed on the committee’s website. No submissions were received from the public. Representatives of the Attorney-General’s Department and ASIO attended a private briefing on this matter.

The committee were informed of nine significant attacks carried out by the Abu Sayyaf Group within the Philippines since 2000. The group engages in kidnapping for ransom. In April 2007 seven local workers on the southern Philippines island of Jolo were kidnapped and later beheaded after ransom demands were not met.

Information provided to the committee by ASIO indicates that, whilst Philippines and United States military operations have ‘fragmented’ the ASG, they are still a force considered to present a threat in the region. The committee acknowledges that the group have an ability to destabilise the southern Philippines and the fragile peace process that exists there.

Jamiat ul-Ansar has been involved in a number of terrorist activities over the past nine years, including hijacking, bombings, abductions and training of terrorists. In 2002, JuA member Ahmed Omar Sheikh was convicted of the abduction and beheading of US journalist Daniel Pearl.

JuA cooperates with other Islamic groups operating in Afghanistan, Kashmir and Pakistan and is a member of the United Jihad, an overarching organisation aimed at coordinating the strategies and communications of the various jihadi groups.

JuA is deeply entrenched within the jihadi movement. It has also been closely linked with the al-Qaeda network and has provided training and religious instruction to other associated terrorist organisations.

Al-Qaeda in Iraq has an extensive history of involvement in terrorist attacks. The committee’s report refers to a comprehensive list of those events.

Al-Qaeda in Iraq claimed responsibility for an attack against an Australian Defence Force (ADF) convoy in Baghdad on 25 October 2004 and an attack near the Australian Embassy in Baghdad on 19 January 2005.

Although there have been no known recent attacks at or near ADF personnel or equipment it is clear that Australians in Iraq are in danger of attack by elements of al-Qaeda in Iraq.

The committee received evidence that al-Qaeda in Iraq specifically include children in their suicide vehicle-borne improvised explosive device (SVBIED) attacks. They are brutal and committed terrorists and the committee fully supports their listing under the Criminal Code.

I want to place on record again my appreciation for the very constructive bipartisan approach of all members of the committee. I am fortunate to have experienced and capable people on the committee. I would like to thank the deputy chair of the committee, the former Attorney-General, Philip Ruddock, and other members of the committee, who bring a great deal of expertise to the proper consideration of these important matters. I commend the report to the parliament.

Mr RUDDOCK (Berowra) (9.41 am)—by leave—I thank the chair for his comments and endorse the remarks that he has made about the importance of relisting these three organisations, Abu Sayyaf Group, Jamiat ul-Ansar and al-Qaeda in Iraq. All of these have been listed as terrorist organisations before, and the continuing engagement of those organisations in terrorism, outlined in the report, constitutes more than sufficient reason for their continued listing. It is important, in the context of the many tragic events that we see from time to time, that we do not allow ourselves to be lulled into a false sense of
security about the risks that terrorism poses to Australia. Terrorism is an ongoing threat.

So far this decade—and I have said this before—Australians have been impacted by more than 10 planned, aborted or actual attacks. The most recent was in Mumbai when tragically, two months ago, two Australians lost their lives and others were injured. Events have occurred each and every year since 2000. In 2000 Jack Roche planned to attack Israeli facilities in Australia. In 2001 Singapore authorities identified a plot by JI to attack our mission, among others, in Singapore. In that year the September 11 attacks on the World Trade Centre occurred as well as those on the Pentagon. In 2002 there were the Bali bombings in which 88 Australians perished. In 2003 Willie Brigitte and others planned to carry out terrorist attacks here in Australia. In 2004 there was an attack on our embassy in Jakarta. In 2005 there were the second Bali bombings. In 2005 we also saw the attacks on the London transport system. In 2006 there were plans to blow up transatlantic flights between the United Kingdom and the United States. In 2007 bombs were planted in the entertainment centre of London and there was an attempt to bomb Glasgow airport. In 2008, here in Australia, we secured convictions of a number of people relating to acts preparatory to carrying out terrorist attacks in Australia.

The report speaks for itself, but I note that there continues to be publicly reported activity involving these organisations. I notice that Abu Sayyaf have admitted to holding three workers of the International Committee of the Red Cross in the Philippines. They are holding them for ransom, one of their known techniques for terrorising and for continuing their activities.

You have organisations like the Australian Strategic Policy Institute undertaking independent analysis of these issues, and I note that on 26 June last year they reported that it is premature to conclude that the threat posed by JI and other extremist groups has significantly receded. They went on to say that JI's ideological message still resonates with other radical Islamic groups that have the intention of carrying out terrorist attacks.

I notice that on 15 November the then Director of the CIA commented more broadly upon the situation internationally and said that al-Qaeda was in retreat in Saudi Arabia, Indonesia, the Philippines and Iraq while it had strengthened in Pakistan and expanded its activities to North Africa, Somalia and Yemen. He said the group was cultivating Somali extremists; gaining strength in Yemen, where attacks were on the rise; and striking Western targets in Algeria, including French tourists and workers. He said that North Africa, East Africa and Yemen serve as a counterweight to the good news out of Iraq and Saudi Arabia.

I think all this serves to demonstrate why this report of the committee remains a relevant document for our consideration. If you go through the report, you will find that there are elements in each case that have some impact here in Australia. On page 17 of the report in relation to the Abu Sayyaf Group it says:

... ASG engages in kidnapping of foreigners, demanding several million dollars in ransom. These kidnappings have occurred at resorts, including those off the coast of Malaysia.

DFAT has issued travel warnings, and it advises that kidnapping is a significant threat for foreigners, including Australians, in the Philippines. Further on in the report, you find that in relation to the second group, Jamiat ul-Ansar, while it makes no direct reference to any direct threat to Australia, the report says:

... JuA's close links with and support of Al-Qaeda and the cancellation of the Australian cricket team's tour to Pakistan earlier in 2008 indicate
that JuA and associated groups within Pakistan pose a threat to Australians in Pakistan.

The chair of the committee mentioned in his own remarks in relation to al-Qaeda in Iraq the responsibility that they have for an attack against a convoy of our Defence Force in Baghdad in 2004 and an attack near our embassy in 2005. I think the record speaks for itself. The support for the continued listing of these organisations is, I think, self-evident and I am grateful that we have a group of members of parliament supporting our organisations that are undertaking the important role of protecting Australia and Australia’s interests and serving conscientiously in sifting through the evidence on these matters and ensuring appropriate probity in the decisions that are taken. I thank the chair of the committee and I thank my colleagues for the work that they undertake. I also thank our committee secretariat for the valued support that they give to us.

***TRADE PRACTICES AMENDMENT (CARTEL CONDUCT AND OTHER MEASURES) BILL 2008***

**Second Reading**

Debate resumed from 10 February, on motion by **Mr Bowen**:

That this bill be now read a second time.

**Mrs MOYLAN** (Pearce) (9.48 am)—As I was saying last night when interrupted in this debate, when the Labor Party first announced this proposal to introduce this legislation in their first year of government, the member for Higgins warned that there was a great need to be careful to make sure that when conduct passes from civil conduct to criminal conduct the lines of demarcation are quite clear. My concern in passing this bill through this place today is that we are giving to the ACCC very wide powers of discretion to determine when conduct actually becomes conduct deserving of criminal prosecution. I think we in this place have a duty of care to make sure that we set very clear boundaries so that these cases can proceed without protracted, costly legal interventions. The member for Higgins’s appreciation of the complexities of this legislation is a testament to his experience and his deep understanding of the need to be able to balance the rights of Australian consumers and the importance of not putting legislation into this place that deters legitimate business—and that is a concern that I do have.

The experience and appreciation of the member for Higgins stands in stark contrast to the populist and unrealistic approach that is being taken by the government on what I think was a fateful election promise. Their inexperience shows. We can see that they have delivered a long line of bungles, from the unlimited bank deposit guarantee, which has caused incredible hardship in the business community, to the national broadband network and now this rushed and poorly drafted anticartel legislation. The law firm Mallesons Stephen Jaques recently published an alert on this bill on their website, stating that the bill will affect ‘all corporations that carry on business in Australia as well as their employees, directors and officers personally’.

Such far-reaching legislation does deserve a more considered approach and I have to say that, while the coalition supports the main intent of this bill—that is, to legislate to deter cartel conduct and to ensure that the punishment fits the crime—I nevertheless remain concerned, as I said, about the wide powers of discretion that we are giving to one agency, the ACCC, in determining the matter of criminalising and determining where behaviour warrants criminal action.

I hope that the government can put aside the desire to push this legislation through, take on board the recommendations that have been sensibly made and, perhaps more im-
portantly, make sure that as it goes through that other place, the Senate, the house of review, they allow proper time for consideration of these matters. (Time expired)

Mr DREYFUS (Isaacs) (9.53 am)—
Protecting competition in commercial markets is a matter which improves the welfare of all Australians. That is perhaps a self-evident statement but it is particularly important to remind ourselves of this at a time of global financial crisis, when shaken confidence in commercial markets and shaken confidence in trading practices needs to be bolstered in every possible way. This legislation, the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008, which is very long overdue, will go some way towards ensuring that people can have confidence in the competitiveness of commercial markets, ensuring that Australians and those overseas who trade with our country can have confidence that the kinds of collusive practices, price-fixing practices and cartel behaviour which the bill is directed at and which the bill will criminalise are investigated and prevented by Australian law.

There is no doubt that protecting competition ought to be a basic aim of economic policy and trade practices law in this country.

I want to say something first about the genesis of the bill, because members will understand by looking at the genesis of the bill just how long overdue this legislation is. It has its genesis not, as some speakers in this debate have suggested, in the report of the Dawson committee, the Trade Practices Act review committee, which reported to the former Treasurer on 31 January 2003, but in a much earlier resolution of the OECD, an organisation of which of course Australia is a member, in 1998. It is a recommendation entitled ‘Recommendation of the Council concerning Effective Action against Hard Core Cartels’. The recommendation contains a particularly pithy summary of the reason why it was made by the OECD in 1998 which is worth drawing to members’ attention. I will read it:

Hard core cartels are the most egregious violations of competition law. They injure consumers in many countries by raising prices and restricting supply, thus making goods and services completely unavailable to some purchasers and unnecessarily expensive for others.

Effective action against hard core cartels is particularly important from an international perspective—because their distortion of world trade creates market power, waste and inefficiency in countries whose markets would otherwise be competitive—and particularly dependent upon cooperation—because they generally operate in secret, and relevant evidence may be located in many different countries.

This Council Recommendation recommends to member countries to ensure that their competition laws effectively halt and deter hard core cartels by providing for effective sanctions and adequate enforcement procedures and institutions to detect and remedy hard core cartels.

The actual recommendation itself is quite long but the key part of it relevant to this legislation is this resolution:

Member countries should ensure that their competition laws effectively halt and deter hard core cartels. In particular, their laws should provide for:

(a) effective sanctions of a kind and at a level adequate to deter firms and individuals from participating in such cartels; and

(b) enforcement procedures and institutions with powers adequate to detect and remedy hard core cartels, including powers to obtain documents and information and to impose penalties for non-compliance.

The recommendation included a definition of ‘hard core cartel’ which, for the information of members, I will also read:

a ‘hard core cartel’ is an anticompetitive agreement, anticompetitive concerted practice, or anticompetitive arrangement by competitors to fix prices, make rigged bids (collusive tenders), es-
establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories, or lines of commerce …

To bring that to life, we have seen examples in recent years in this country, most notably a very public case involving cardboard box manufacturers in Australia which led to very large penalties being imposed in the Federal Court. We have seen other cases involving allegations of price-fixing behaviour in the retail petrol market, and numerous other examples of price-fixing and cartel-like conduct have been disclosed in recent years in Australia.

That recommendation of the OECD in 1998 regrettably came to an Australia governed by the former government, which demonstrated little or no interest in acting on that recommendation of the OECD. We had to wait until the former Treasurer announced terms of reference for a Trade Practices Act review committee in May of 2002, and that was in the face of repeated calls by people in the trade practices area, notably the former chairman of the Australian Competition and Consumer Commission, Professor Allan Fels, who called for criminal sanctions to be imposed for cartel conduct.

The Trade Practices Act review committee was finally established by the former government, some four years on from the OECD recommendation—proceeding at a glacial pace. The committee were a group of eminent Australians: former High Court judge Sir Daryl Dawson, Jillian Segal and Curt Rendall. They reported, after an extensive inquiry in which they received a large range of submissions, to the former Treasurer on 31 January 2003. In their report, they made it clear that they supported, in direct terms, the introduction of criminal sanctions for serious cartel behaviour.

Chapter 10 of their report deals with penalties and other remedies in the trade practices area. In that chapter, the committee quoted from the definition of ‘hard core conduct’ in the OECD recommendation that I have earlier referred to and, interestingly, they quoted from a then more recent report of the OECD from 2002, entitled Report on the nature and impact of hard core cartels and sanctions against cartels under national competition laws, which contained a survey that the Dawson committee quoted from. The survey was of OECD countries and other developed countries as to whether or not they had imposed, under their national law, penalties for cartel conduct or had criminalised cartel conduct. What is striking about it is that even in 2002, as the Dawson committee records in quoting from that 2002 OECD report, 23 of the then 30 member countries of the OECD had provided for fines or monetary penalties against firms, 13 countries had provided for fines or monetary penalties against individuals and nine countries had provided for terms of imprisonment. The survey in the 2002 report of the OECD went on to look at other countries’ records in imposing not only very, very large monetary penalties but, in a number of cases, terms of imprisonment. It was apparent that almost all of the countries with which Australia would like itself to be compared had legislated to bring in serious penalties or criminal sanctions for this kind of ‘hard core cartel conduct’, as it is referred to by the OECD. Canada, the United States, Germany, Japan and the United Kingdom had all legislated to introduce criminal sanctions and heavy penalties.

The response of the former government continued with the same glacial pace. It was not until two years after receiving that report from the Dawson committee that the former Treasurer, the member for Higgins, on 2 February 2005, announced his intention that the
government would amend the Trade Practices Act to introduce criminal penalties for serious cartel conduct. A little bit later, there was an announcement made by the former Treasurer and the member for McEwen in her then ministerial capacity to the effect that an amendment to the Trade Practices Act was being prepared. They actually went so far as to give it a name—it was said that there was going to be a Trade Practices Amendment (Cartel Conduct) Bill 2005 and that that bill was being prepared—but, of course, the bill was never introduced. Nothing more was heard from the former government about its enthusiasm for acting on the recommendations of the Dawson committee. Nothing more was heard about its intention to act on what was getting to be a pretty old recommendation of the OECD, having been made back in 1998. It, regrettably, became typical of the former government in its last term and, indeed, even in its second last term that matters which were urgent, which were pressing and which there had been calls nationally and internationally for action on were met with a complete lack of action.

By contrast, the Rudd government is acting on an election commitment made in 2007 that, if elected, the government would introduce legislation to criminalise cartel conduct. That is precisely what the Rudd government did. On 11 January 2008, some 1 ½ months after being elected, the Minister for Competition Policy and Consumer Affairs published an exposure draft of the bill which is now before the House, together with a discussion paper issued by Treasury. This was intended, as the minister has made clear in his second reading speech, to provide a basis for consultation with interested parties through the course of 2008. Consultation took place through 2008 with economists, trade practices experts, lawyers and industry. They are consultations that I had some small part in, and I can say very directly what thorough consultations they were. That, of course, led in turn to the introduction of this bill by the Assistant Treasurer on 3 December last year.

The support of those opposite, as reflected in the two speeches that we have heard from the member for Pearce and the member for Cowper, is, of course, welcome. It is, however, support that is a little less than full. Both of those speakers, the member for Cowper and the member for Pearce, have simply said that they support what they described as the ‘broad thrust’ of this legislation. The bill having been referred to the Senate Standing Committee on Economics, they say that the opposition is awaiting the report of that Senate committee before announcing what its position is. Extraordinarily, you would have to say that that present enthusiasm—if, in truth, it can be properly described as enthusiasm, as it is heavily qualified—for legislation to criminalise cartel conduct does not compare well with what I have just recounted to the House: the desultory approach of the former government to acting on what all Australians would regard as a very serious matter.

I was struck by the comments made by the member for Pearce this morning—the major and first part of her speech having been delivered before being interrupted last night—that reflect some level of concern for the civil rights of Australians, which she said were a reason that there should be yet further delay in the introduction of this kind of legislation. I would have to say that it is a pity that her party did not reflect the same level of concern for the civil rights of Australians at, for example, the time of the introduction of the antiterror legislation in 2003, which included—as did subsequent amendments of antiterror legislation—such alarming provisions as the introduction of strict liability offences carrying life imprisonment. But perhaps it depends on the area in which this parliament is being asked to legislate, with
attitudes on legislation which concerns commercial conduct differing from the attitudes reflected by those opposite in respect of more ordinary civil rights of Australians—being, in some respects, those affected by the antiterror legislation.

The need for this legislation is clear. It has been a long time in preparation, and it is alarming to hear from those opposite the suggestion, as was made by the member for Pearce, that this legislation is being rushed. This legislation has been called for since 1998 and is the subject of the clearest possible recommendations of the Dawson committee, which delivered its report to the then Treasurer on 31 January 2003. It is a bill that has been the subject of an exposure draft since January last year and has been the subject of extensive consultation through 2008. Yet the member for Pearce comes into this House and says that the bill is being rushed.

So, too, one could point to the apparent enthusiasm—or perhaps it is more feigned enthusiasm—by the member for Cowper, who correctly observed that this legislation brings Australia into line with the United States, Canada and the United Kingdom, which, as he says, are countries that have similar sanctions in place. The member for Cowper was moved to say that this legislation is very important legislation, which of course we agree with. He said again, towards the end of his speech, that the bill not only puts us in line with Canada, the US and the UK but also meets community expectations. But, again, we are left with 'supporting the thrust of the legislation'. That is the opposition's position, and they await the outcome of the Senate inquiry.

This legislation, it has to be accepted, is difficult legislation. That is reflected in a very unusual submission that was made by the Law Council of Australia. Normally, the Law Council—as with most bodies—makes submissions to government inquiries and to ministers which adopt a single position. In one very important aspect of this bill, the Law Council of Australia offered a split submission, particularly in respect of the aspect of the exposure draft of the bill which incorporated in the offence a dishonesty provision. The bill that is now before the House has removed, at the urging of many, many of the submitters, that dishonesty component. But the fact that one section of the Law Council thought that it should stay in and the other thought that it should stay out shows that this certainly is a matter on which minds may differ. Many submissions have been made to the Senate Standing Committee on Economics as well, and no doubt the report of that Senate committee will provide some consideration of and instructive recommendations on that difficult question.

This legislation is long overdue. It is legislation which the former government should have introduced many years ago. This legislation—as is the case with very much of the legislation that this government has been able to introduce in the parliament—is legislation which I commend to the House.

Debate (on motion by Mr Wood) adjourned.

BUSINESS

Suspension of Standing and Sessional Orders

Mr ALBANESE (Grayndler—Leader of the House) (10.13 am)—by leave—I move:

That, for the sittings of 11 and 12 February 2009, so much of the standing and sessional orders be suspended as would prevent:

1. the report from the Main Committee relating to the condolence motion on Victorian bushfires being considered at 2 p.m. and for debate on the motion to ensue;

2. the debate being adjourned to a later hour and the matter standing referred to the Main Committee for further consideration; and
(3) for the remainder of these sitting, orders of the day, government business, having precedence.

This motion is a result of discussions between the government and the opposition, and there is a consensus that this is the appropriate way for the parliament to proceed today and tomorrow. Therefore, question time will not proceed over these two days. For the benefit of members, it is intended that at 2 pm the member for Gippsland and the member for Indi will deliver their contributions on the motion of condolence on the Victoria bushfires. Should any other member from affected electorates return to Canberra either today or tomorrow, they would be given the appropriate precedence to make a contribution in this main chamber, as—might I say on behalf of all members—the three members did in such an outstanding fashion yesterday.

Following the updates to the House regarding the bushfires, the member for Kennedy and the member for Dawson will update the House with regard to the impact that the floods have had on their electorates in Northern Queensland. The Prime Minister will then update the House on the relief efforts. The Leader of the Opposition and the Minister for Defence, who has returned from Victoria, will also update the House. The House will then resume government business.

Today, the House has again awoken to more stories of horror from the Victorian bushfires. The official death toll has risen to 181 and the nation must brace itself for further bad news. All the experts say it is likely to rise, perhaps significantly. As we confront the biggest natural disaster in our history, it is appropriate that the House respond accordingly. May I say on behalf of the parliament that the response from across the nation has been as we would expect—overwhelming. Financial donations already stand at over $33 million and I am sure that all Australians will continue to show the nature of their character—which is, at times such as these, to dig deep to help their fellow Australians.

The government and, indeed, the parliament stand shoulder to shoulder with the affected communities in Victoria. As the Prime Minister has outlined, we have deliberately made the decision to place no cap on the Commonwealth’s contribution to the recovery and reconstruction effort. That is a position supported in a bipartisan fashion by this parliament. The government and, indeed, the parliament will be partners for the long term in the rebuilding of each of these communities. I thank very much the Manager of Opposition Business and the Leader of the Opposition for the cooperative way in which they have conducted themselves in terms of ensuring that we are able to resolve the procedural way forward in a way, I think, that all of us in this parliament would agree with. I note the email sent out by the Speaker to all members yesterday, which reflected the fact that the Australian public think also very much that this is an appropriate way to act, and I am sure the Manager of Opposition Business will support this motion.

Mr HOCKEY (North Sydney—Manager of Opposition Business) (10.20 am)—The opposition does support this motion and it appreciates the discussions we had with the Leader of the House and the Deputy Leader of the House this morning. I apologise to the Independents if we have not had an opportunity to consult with them, but I feel that they would be very understanding of this.

The only other time that the parliament has sat for a week and not held question time was perhaps during World War II. The gravity of this unfolding human tragedy is such that the ink is not dry in the written story of what will be one of Australia’s greatest ever tragedies. The human tragedy continues to
unfold and whilst there will be many ques-
tions to be asked, and hopefully all of them
will be answered, we agree that, whilst this
tragedy continues to unfold, now is not the
time to show anything other than absolute
and total support for every effort of every
person to address this continuing drama.

The member for McEwen, Fran Bailey,
spoke with the Chief Opposition Whip a lit-
tle earlier. As everyone knows, Fran is a stoic
character, but the significance of what is
happening and what is about to unfold is
weighing very heavily on her. She would be
here but for the fact that her community is
burning, and I do not expect her to be here
this week. I very much appreciate the gov-
ernment allowing so many of our members
who are affected by these fires to have an
opportunity to speak on behalf of their com-
munities. I also think it is an important op-
portunity to thank Australians for the collec-
tive effort and the collective spirit that is
pervading the nation.

In one sense it is sad that only at times of
crisis—be it wartime, economic crisis or
other crisis—do people truly recognise the
real spirit of Australia. The beauty of this
nation is that whenever we call for the spirit
of the nation to come to the fore it comes to
the fore—and in bucketloads. Therefore,
with regard to the conduct of this parliament,
whilst process is important, it is the spirit and
the message that this parliament conveys to
the people of Australia that matter at this
particular moment. The democratic part of
our souls that continues to burn would al-
ways wonder whether it is right that the par-
lament should suspend its moment to ques-
tion that what is being done is right, but it is
the right moment to do this—to hold back, to
be measured, to be supportive and to let the
Australian people know that, as one, we are
saying: ‘We are there for you.’

We support this motion. We thank the
government for its cooperation. As the
Leader of the Opposition said, let us do
whatever it takes. Let no stone be unturned
as we investigate all the reasons for this hu-
man tragedy. The spirit, will and support of
the entire nation must be unqualified during
these dark hours as the human tragedy con-
tinues to unfold.

Question agreed to.

TRADE PRACTICES AMENDMENT
(CARTEL CONDUCT AND OTHER
MEASURES) BILL 2008
Second Reading

Debate resumed.

Ms MARINO (Forrest) (10.25 am)—The
Trade Practices Amendment (Cartel Conduct
and Other Measures) Bill 2008 provides for
the criminalisation of cartel conduct and will
necessitate the creation of an indictable
criminal jurisdiction in the Federal Court for
the trial of offences. The Trade Practices
Amendment (Cartel Conduct and Other
Measures) Bill 2008 was introduced to act as
da deterrent to price fixing. Criminalising car-
tels brings Australia into line with the United
States, Canada and the United Kingdom,
which have similar sanctions. The bill will
make it an offence for a corporation to make
or give effect to a contract, arrangement or
understanding between competitors that con-
tains a provision to fix prices, control out-
puts, divide or share markets or rig bids.

This cartel legislation has become increas-
ingly necessary because Australian busi-
nesses are engaged in the global market-
place. The OECD has defined hardcore car-
tels, and Australia must ensure it has similar
laws to prevent and manage international
cartel conduct crossing borders. This bill is
important and should be subject to consid-
eration and scrutiny to deliver the intent of
the legislation. Cartel behaviour has a major
impact on the object of the Trade Practices
Act. That object is to enhance the welfare of Australians through the promotion of competition and fair trading and the provision for consumer protection by focusing on issues such as unfair prices, market power abuse and consumer rights violations. By their very nature, cartels have a significant impact on small business through anticompetitive conduct. This is even more relevant in the current global economic environment, where some executives may well resort to cartel practices. It is even more important, then, that this legislation is a strong deterrent, as well as sending a clear message to major corporations or multinationals dealing with small businesses in Australia.

As small business is a key driver of competition and choice, as well as employing nearly half the workforce, it is essential that the commercial environment promotes small business growth and development without the abuse of market power by major corporations. We know that numbers of viable, independent, competitive small businesses cannot be underestimated, particularly in rural and regional areas, where one of the primary principles of National Competition Policy, the public benefit test, is most relevant and most at risk. Small business underpins the economic and social fabric of countless regional communities. They are the businesses that employ locals and financially support local community service, education and sporting groups. Small business brings enterprising families who are prepared to have a go to rural areas and, of course, small business by its very definition is most vulnerable to cartel market concentration and unconscionable conduct practices by major corporations—for example, the farmer and grower sectors and small retailers. The majority of our farmers are absolute price takers, with no capacity to pass on increasing costs of production. They often are producing perishable products that have to be processed very quickly, which automatically places them in a vulnerable position with processors and buyers. They deal with limited numbers of often vertically integrated companies and, for those in the domestic retail market, two major supermarket chains that control the majority of the market. Small business also often has to deal with multinationals.

The Trade Practices Act powers are even more important, given that we have one of the most highly concentrated retail sectors in the world. There appears to be an increasing gap between farmgate prices and retail prices. Equally, farmers, small retailers and small businesses have limited financial capacity, time and resources to take on major corporations, even through the ACCC and court processes, or to apply for exemptions under the trade practices provisions: consider the ACCC and Federal Court process and the time commitment and costs borne by the Victorian Farmers Federation members, and farmers themselves, in the chicken growers bargaining authorisation case and the successful appeal against the ACCC ruling. The authorisation application on behalf of Western Australian dairy farmers is another example of vulnerable growers trying to manage the ACCC process. These cases highlighted the problems the ACCC has in dealing with small business versus big business cases. I can well remember walking into a hearing with the ACCC and being told how disappointed they were with the submission. The ACCC had expected a submission along the lines of that presented in a previous case by Air New Zealand and Qantas. At that time there were fewer than 300 dairy farmers in Western Australia, and now there are fewer than 200 dairy farmers left in the state.

In Australia, of the 2.227 million litres of milk sales in 2008, 55 per cent is sold by supermarkets. An overwhelming majority of this, 78 per cent, is sold by Coles and Woolworths. Coles and Woolworths have signifi-
cantly grown their home brand milks using a Dutch auction style tendering process to secure milk volumes from milk processors. Of course, the fact that 78 per cent of total milk is sold through these supermarkets is a major driver in the bidding process. Woolworths’ next home brand milk tender is due later this year. With the Dairy Farmers Milk Cooperative now in the hands of National Foods, there will be one less competitor in the tender process. I will be very interested to see which of the nation’s three remaining major processors tender for the contracts, which ones are successful with their bids and, ultimately, what impact this will have on farmgate prices.

One thing we can be sure of is that the farmers will bear the cost of low price tenders. These same farmers are producing one of the most, if not the most, perishable food products in the world and, by this very definition, those same farmers are extremely vulnerable. Their product has to be picked up, processed and sold on virtually a daily basis. Their competitive capacity in this environment, unless there are serious milk shortages, is significantly compromised. We should never forget they are producing milk to some of the highest quality standards in the world. Each time there is rationalisation in the number of processors—by way of mergers, acquisitions or withdrawals from the market, resulting in fewer buyers and less competition—the farmer and the small family business bear the ultimate cost. Dairy is our third largest, major value added and exporting rural and food industry, directly employing approximately 40,000 people. However, as I said, by the perishable nature of their product and the considerable market power of buyers, the farmers are amongst the most vulnerable in the marketplace. In recent weeks, dairy farmers have also seen severe cuts in milk prices.

Small business continues to be affected by major corporations. A previous senate inquiry summary noted:

Over the past twenty years or so, Australia has seen the demise of hundreds of small grocery stores, butchers, bakers, florists, greengrocers, pharmacists, newsagents, liquor outlets and other small retailers as a direct result of the continuous expansion of major supermarket chains and major speciality retailers, often subsidiaries of the same conglomerate.

The ACCC itself acknowledges that cartel conduct probably costs economies all over the world trillions of dollars each year, hurting small business and consumers and adding an estimated 10 per cent to the cost of products where they are operating. Increasing market concentration in business also costs small business and consumers. We see this in the retail sector affecting smaller retailers. We are seeing it in the banking sector, particularly with the Labor government’s support of the big four banks. There is no doubt that this makes the big four banks even more dominant players in financial markets and undermines competition. The ACCC’s approach to this will be extremely interesting.

We see increasing market concentration in the fuel market. In 2002-03 for instance, Coles and Woolworths sold 10 per cent of petrol. In 2006-07, Coles and Woolworths accounted for approximately 44 per cent of all petrol sales. In an article by Melissa Singer the CEO of the Service Station Association, Ron Bowden, is reported to have said in relation to the defeat of Fuelwatch that he was ‘relieved with the Senate’s decision’ and that ‘since the supermarket chains had entered the petrol market, the rate of independent closures had doubled’. Then we see the concentration of the wholesale fuel market. In 2006-07, Caltex held 39 per cent of the market, Shell 29 per cent, Mobil 16 per cent and BP 12 per cent. Collectively,
that is 96 per cent of wholesale sales. The independents hold four per cent.

A further example of the ACCC’s incapacity to manage small versus big business issues is the fertiliser industry. The substantial market share opportunities for Incitec Pivot in recent times and the ‘take it or leave it’ position farmers find themselves in was clearly highlighted by the gap between world benchmark prices and prices being paid by our farmers—again, farmers in small business being affected by market concentration. The terms of reference of the Dawson review said that the government is aware of concerns that ‘excessive market concentration and power can be used by businesses to damage competitors’. This will not be the last amendment to the Trade Practices Act; it is just the next amendment. A range of definitions of cartel conduct is contained throughout the act. Sections 45 and 45A are quite specific in relation to serious, hardcore cartel conduct.

Under this legislation, other Commonwealth offences will be heard in state and territory courts. The Federal Court is to be vested with this jurisdiction due to its extensive experience with civil and quasi-criminal cartel cases under the current Trade Practices Act. However, it is understood that, where prosecutions involve offences both under the cartel provisions and state or territory law or, alternatively, other Commonwealth offences to which this bill does not apply, state or territory superior courts will hear those matters without the offences being disjoined.

The amendments proposed in this bill will provide for the complex procedural framework required by the new jurisdiction. The procedural provisions have been modelled on existing state and territory provisions and will apply in all Federal Court trials, regardless of where the trial is being conducted. This is considered preferable to applying the procedural and evidentiary provisions of the relevant state or territory, and this is where the Evidence Act 1995 will be applied.

I note that the proposed penalties relate to 10 years jail and/or a fine of $220,000 for individuals. Corporations will face fines that mirror the current maximum pecuniary penalties for breaches of civil penalty provisions. That is, the greater of $10 million—or three times the benefit obtained by the criminal cartel conduct, if this indeed can be determined—or 10 per cent of its annual turnover. The penalty for corporations was a recommendation of the Dawson review of the Trade Practices Act.

This bill is also to be considered by the immigration and legal policy committee. An issue raised at the Senate Standing Committee on Legal and Constitutional Affairs in December related to pretrial disclosure. Proposed section 23CF requires an accused who takes issue with a fact, matter or circumstance disclosed in the prosecution’s case to state the basis for doing so.

The Law Council of Australia has indicated its concern that this may compromise an accused’s right to silence. The justification stated in the explanatory memorandum is that this will permit the court to narrow the issues to be dealt with at trial. The Law Council recommended that a comparable provision to that applicable in New South Wales which allows such a procedure be adopted, unless it will cause prejudice to the defence. Alternatively, there should be no adverse consequences flowing from the accused’s nondisclosure, which is the practice in Victoria.

In relation to bail, proposed section 58DA provides: If the Court refuses to grant bail, the accused cannot make a subsequent application unless there has been a significant change in circumstances.
That is more onerous than provisions applying in any other Australian jurisdiction. Proposed section 58DB is also silent as to whether there is any presumption in favour of bail. In other jurisdictions, there is generally a presumption in favour of bail, except in specific circumstances. There is also no provision in this bill for the court to provide reasons for refusing bail.

Six submissions have been lodged with the Senate Standing Committee on Legal and Constitutional Affairs. Some requested more debate on the matter, suggesting that a separate reference to the Australian Law Reform Commission should be made to engage wider debate and consideration. With 118 pages of complex draft legislation and such a short time frame in which to lodge submissions to the committee, this has resulted in mostly short submissions, citing insufficient time to consider the bill in detail. There was general belief that it is essential to consider such an important bill in detail. I support the bill, subject to the findings of the Senate inquiry, due on 20 February.

Mr NEUMANN (Blair) (10.40 am)—I speak in support of the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. Competition is good, competition works, competition lowers prices; cartels are oligopolistic. Cartels distort markets, cartels raise prices. Cartels are agreements to organise prices and production. Cartels price fix. They determine production outcomes, they allocate customers, they divide territorial boundaries and they engage in all manner of nefarious conduct. Adam Smith, in The Wealth of Nations, published in 1776, said this:

People of the same trade seldom meet together, even for merriment and diversion, but the conversation ends in a conspiracy against the public, or in some contrivance to raise prices.

I concur with the man often described as ‘the great prophet of capitalism’. He is right. Cartels are iniquitous arrangements which harm consumers and usually those who are weak in terms of their financial arrangements—those on low incomes and those who are not in a position to exercise choice as wisely as they ought. Cartels are a problem in Australia.

On 21 November 2008, the ACCC chairman, Graeme Samuel, said in relation to cartels, and particularly this bill, that this bill was terribly important in the current global financial crisis. He said:

The global financial crisis has given some companies an incentive to collude with others and raise prices ...
The bill under consideration today has been the subject of intensive community consultation. All the relevant stakeholders have been engaged in this process. The bill amends a great Labor government initiative, the Trade Practices Act, which did so much, from 1974 onwards, to protect the rights of consumers, to give them choice and to ensure that we had as level a playing field in business, in pricing arrangements and in the market as we possibly could. But, sadly, there are some in our community who do wrong, both corporations and individuals. That is why we have the Corporations Law and the criminal law.

What we are doing today is very long overdue, as the member for Isaacs has said. He described the pace of reform under the previous Howard government as glacial; I would describe the Howard government’s approach as that of idleness and ignorance. We are aligning the law with that of our OECD partners—for example, a term of 10 years imprisonment for the most egregious criminal behaviour is the same as applies in the United States of America.

As with so many of the bills that have been introduced by the Rudd Labor govern-
ment since 24 November 2007, we have members opposite getting up and saying, ‘We were going to do that.’ The member for Pearce talked about how this was to happen under their government, but when you look at the years and years of procrastination one wonders. This bill’s genesis does not go back to the report of Sir Daryl Dawson, known as the Dawson review. It goes back much further. The member for Isaacs was absolutely correct when he referred the House to the OECD reports of 2002 and 1998. The Dawson review, much vaunted and acclaimed by those opposite, actually recommended that there should be criminal sanctions for serious cartel behaviour and that there should be a definition in the Trade Practices Act for serious cartel behaviour. That was a report from 2003, some four years before the Howard government was turfed out of office.

It took at least 1½ years before the then Treasurer, the member for Higgins, finally decided to do something about this matter. He announced on 2 February 2005 that the Howard government would amend the Trade Practices Act accordingly. But it is interesting that nothing happened until 24 November 2007, when the Rudd Labor government was elected. The member for Higgins’s bill—what I would describe as the fictitious Higgins bill—was never introduced. Perhaps it was to be introduced in the 13th year of the Howard government. Indeed, Prime Minister Howard stated that the coalition government, if re-elected, would re-examine the Trade Practices Act and ‘make changes if needed’, effectively ignoring the work of the OECD in 1998 and 2002 and snubbing Sir Daryl Dawson and his review. This was a gross failure of the regulation of business, of criminal law and of competition policy in this country. As has been the case on many occasions, it is left to Labor to stand on the side of consumers. In the lead-up to the 2007 federal election, the Labor Party committed itself to the implementation of the Dawson review recommendations.

The 1998 OECD report was very interesting and was adopted by the council of the OECD on 25 March 1998. There were some very strong recommendations in that report that dealt with fighting hardcore cartels. It was subsequently discussed and examined in a 2002 OECD report called *Fighting hardcore cartels: harm, effective sanctions and leniency programmes*. This second report reiterated the findings of the first report that hardcore cartels are the most egregious violators of competition and hence a principal focus of competition policy and law enforcement. The recommendations were very strong, direct and unequivocal. The report stated that world trade was at risk if there was no effective application of competition policy and that these anticompetitive practices constituted an obstacle to the achievement of economic growth, trade expansion and other economic goals of member countries. The recommendations can be found in bold in the report. Member countries were urged strongly to consider all obstacles to effective cooperation of enforcement laws against hardcore cartels and to consider whatever actions were necessary, including national legislation, to eliminate or reduce those obstacles.

We have seen consumers across Australia, including in my electorate of Blair, in South-East Queensland, rise up against oligopolistic practices, against too-high prices at supermarkets and petrol stations and against other organisations which offer their services at too-high prices. Nothing irritates Australian consumers more than paying too much for goods and services that are offered in the marketplace. They absolutely hate it, and they talk to us politicians about it all the time. I do mobile offices almost every Saturday morning in my electorate, and I can guarantee you that when I am at Brassall
Shopping Centre in Ipswich on Saturday morning someone will come and talk to me about the prices of goods offered in the supermarkets across Ipswich and beyond. We have seen absolutely stark displays of malfeasance by leading companies in this country in relation to price fixing. It is a national disgrace and it really annoys the Australian public. The Visy group of companies was fined $36 million and there were separate pecuniary penalties for the former chief executive and the former general manager. Before that, there was for years secretive behaviour from individuals and various corporations dealing with price fixing, collusion and anticompetitive behaviour, and no-one knew about it. It was only by almost inadvertence that the matter came to the attention of the Australian Competition and Consumer Commission. There was a request by Amcor for immunity from prosecution and it all flowed from there.

The key elements in this bill are to be applauded—they are very worthwhile. The idea of aligning the maximum term of imprisonment of 10 years or a maximum fine of A$220,000 for an individual is a good thing. It lines us up with our OECD-friendly neighbours and our competitors. For a corporation, a fine is imposed that is either $10 million or three times the value of the benefit from the cartel, whichever is the greater, or, where that value cannot be determined, 10 per cent of the annual turnover is required. I think that is a very worthwhile reform in the circumstances. It sends a very clear message to individuals and corporations not to engage in this sort of behaviour.

The government has decided that the offences will no longer include the words 'with the intention of dishonestly obtaining a benefit' and has decided to adopt a more liberal and widespread approach to make it easier for prosecution. Instead, the government has adopted fault elements under the Criminal Code in the legislation: intention, knowledge and belief. They are aspects of the criminal law which are known throughout Australia and I applaud that particular provision.

There are many anticartel provisions in this legislation. There are parallel civil prohibitions as well and also a strengthening of telephone interception powers because cartels engage in very secretive arrangements. It is extremely difficult to discover cartel arrangements and it is hard to get the evidence. I spoke last week in relation to the Telecommunications Interception Legislation Amendment Bill (No. 2) 2008 because that allowed Queensland, my home state, to join in the same type of law enforcement that we see elsewhere. For a long time the Howard government opposed the requests of the Beattie and Bligh Labor governments to allow Queensland to come into the 21st century when it comes to telecommunications interception, simply because—as I understand it—there were objections to the public interest monitor.

But now, allied with the trade practices amendments we are dealing with today, we see telephone interception powers which will be nationwide and which will allow police services—for example, the Queensland Crime and Misconduct Commission and the Queensland Police Service in my home state—to investigate and have the kinds of powers that are necessary to get around the cloak of secrecy that so many individuals and corporations engage in when they try to rip off the Australian public.

I am pleased that, allied with the legislation before the House today, last week we dealt with the telecommunications interception legislation. The other bill which is so critical to what I would describe as a code which is being established—a new legislative framework or architecture—is the bill which we discussed last week and also this
week: the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008. That particular piece of legislation, which is integral to the whole framework of the legislation that we are considering to deal with cartels in this country, was all about giving the Federal Court of Australia the criminal law jurisdiction which is necessary to deal with cartels. That was a long overdue reform and it allows the Federal Court of Australia to deal with indictable criminal offences, serious criminal behaviour and serious anticompetitive behaviour by cartels. It is a great legislative reform and it allows the Federal Court of Australia, which has significant expertise in cartel conduct in civil jurisdiction, to deal with this area in criminal law.

The Federal Court of Australia has a significant body of jurisprudence and history of case law in this country, and also the precedent to deal with this type of matter. Having a uniform set of procedures in criminal law, rather than a referral to the various sets of state rules and procedures in criminal law, is a very wise move by the Rudd Labor government and I applaud that particular legislation, which is integral to the legislation that is before the House today.

There are additional measures that the Rudd Labor government has taken to bring forward the prosecution of cartel behaviour. It was a Labor government which brought in the Trade Practices Act and it is Labor that really believes in free enterprise—Labor believes in free markets and we believe in free trade. We believe that it is necessary to prohibit cartels. Too often our media, even our police and our various directors of public prosecution focus on blue-collar crime in this country. It is sensational and easy to report. Media outlets show good pickies—if I can put it like that—on the Channel 9, Channel 7 and Channel 10 news on Sunday nights, but white-collar criminal cases are not particularly interesting because all you see are people walking into courts. You do not see—I will put it bluntly—the blood and guts that you would see in blue-collar crime. You just do not see it.

But it irks and irritates the Australian public that the big fish seem to get away with so much. It is very important that we have this type of legislation. If you go to the magistrate’s court in any particular part of this country you see lots of people with drink-driving, drug or stealing offences. They are facing criminal charges in a magistrate’s court or a court of petty sessions across this country. Too often, we do not have the big guys, the big corporations—the big fish. They seem to escape the net. We are rebuilding the net with this legislation and the two other pieces of legislation. We are actually building a great net that is going to capture cartel behaviour and we will legislate for the benefit of the Australian public.

That is why I support this bill and why I think that this bill will send a message to those individuals and corporations who engage in this type of behaviour. It is why this bill says a lot about where we are as a country and what an educative process it will be for the Australian public to see this type of legislation on the statute books and enforced properly for the benefit of the Australian community. I commend the bill to the House.

Mr SECKER (Barker) (11.00 am)—In bringing forward the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008, the government is essentially strengthening free market competition in Australia. This is perhaps surprising given the Prime Minister’s rhetorical attack last week on the ideology of the free market while attempting to convince us to plunge Australia deeply into debt as a means of addressing the economic crisis. I have studied economics sufficiently to know that a free
market is not to be demonised; indeed, a free market is the essence of what makes successful economies work. A free market is a market in which the prices of goods and services are arranged completely by the mutual consent of sellers and buyers. That is the basis of all economics that my university degree taught me—unfettered supply and demand are the basis of economics.

A free market does not mean one which is free of government intervention and regulation. Indeed, I wholeheartedly believe the government should play a key role in facilitating market competition—not just the basic functioning of maintaining the legal system and protecting property rights but by ensuring it is also free of private force and fraud. This is the basis of the Trade Practices Act, originally made law by a coalition government and continually amended over the years. It was a coalition government that had to amend sections 45D and E. I could not go on without mentioning that, given the minister presently on duty at the table: the Minister for Resources and Energy. These amendments were to ensure that unions were not allowed to restrict the free market. Labor of course was opposed to this at the time.

Mr Martin Ferguson—Or employers.

Mr SECKER—Exactly. Where two or more businesses reach a formal or informal agreement to limit competition among themselves—for example, by fixing similar prices or agreeing on separate marketing areas—they are said to form a cartel. Cartel conduct refers to contracts, arrangements or understandings between competitors to fix prices or share markets, to control output or rig bids. Such conduct harms consumers, businesses and the economy by increasing prices and reducing choice, service, innovation and efficiencies. The aim of cartel collusion is to increase individual members’ profits by reducing and restricting competition. Hardcore categories—not a term I am entirely comfortable with, but it is the one used in this legislation—of cartel conduct universally involve price fixing, output restrictions, market allocation and bid rigging.

I recently read a feature article in the Washington Post describing the squads of assassins working for multinational drug cartels—some of them former military and counterdrug personnel, highly trained, who have turned murder into an almost assembly-line duty in Juarez in Mexico and other fought-over drug trafficking battlegrounds. For the most part, these squads of assassins are used by cartels against one another battling over turf. Thankfully, in Australia cartels do not have such a deadly modus operandi.

Graeme Samuel, Chairman of the Australian Competition and Consumer Commission—another investment banker in a previous life—endows cartels with the term ‘well-dressed thieves’. While not deadly as in the Mexico case, the harmful effects of hardcore cartels are well understood. Consumers benefit from competition through lower prices and better products and services. When competitors agree to forgo competition for collusion, consumers lose those benefits. The competitive process of a free market only works when competitors set prices independently. When competitors agree to forgo competition for collusion, consumers again lose those benefits.

Secret cartel agreements are a direct assault on the principles of competition. Indeed, hardcore cartels are the most serious and harmful violations of competition law. They injure consumers by raising prices and restricting supply. They create market power, waste and inefficiency in countries whose markets would otherwise be competitive. A cartel shelters its members from full exposure to market forces, reducing pressures on
them to control costs and to innovate—all adversely affecting efficiency in a market economy. Cartels harm consumers and damage economies. A successful cartel raises prices above the competitive level and reduces output—again, basic supply and demand so well understood from economics.

Consumers pay the cartel price, thereby unknowingly transferring wealth to the cartel operators. Cartels are generally considered among the most serious competition infringements, and competition authorities around the world are increasing their efforts to pursue cartel offences, both domestically and internationally.

Identifying and breaking up cartels is an important part of the competition policy overseen by antitrust watchdogs in most countries, although proving the existence of a cartel is rarely easy as cartel companies are usually not so careless as to put agreements to collude on paper.

The OECD’s competition committee conducted a survey of cartel cases with its members between 1996 and 2000 in an attempt to learn more about the harm from cartels. The amount of commerce affected by just 16 large cartel cases reported in the OECD survey exceeded US$55 billion worldwide. The OECD survey showed that the cartel mark-up can vary significantly across cases, but in some it can be very large, as much as 50 per cent or more, and the report concluded that the magnitude of harm from cartels is many billions of dollars annually.

The report of the 2003 review of competition provisions of the Trade Practices Act by the Trade Practices Act review committee, commissioned by the Howard government and chaired by Sir Daryl Dawson, known as the Dawson report, was released in April 2003. The Dawson review concluded that criminal penalties were an effective deterrent to serious cartel behaviour but noted that one of the critical issues in drafting penalties for any such offence would be identifying the elements of cartel behaviour that would differentiate a criminal offence from a civil breach. This bill is therefore one response to the Dawson report, introducing criminal penalties for serious cartel conduct. The bill makes the distinction by providing that a person commits an offence only if they make or give effect to a CAU that contains a cartel provision with the intention of dishonestly obtaining a benefit.

Antitrust breaches are not always easy to identify and are frequently hard to distinguish from robust competition. Indeed, a few years ago Microsoft ran into trouble largely because it bundled its web browser with the Windows operating system and was duly found to have violated antitrust law. Yet bundling is a common business practice that can be entirely legitimate. To put this concept in its most simple terms, a breakfast restaurant can bundle items such as eggs, bacon and sausages onto a plate and sell it for less than the sum of the individual constituent parts, but this is certainly not dishonest. It is often tricky, too, to draw the line between healthy discounting and predatory pricing. Loyalty discounts are widely used in business and have benefits for consumers and suppliers alike; conversely, loyalty schemes can be used to keep rivals out of the market and preserve an incumbent’s monopoly.

I raise these examples to show the difficulty in saying for sure whether the actions of businesses are harmful to consumers and the care we must take as legislators to determine and define the term ‘dishonesty’, as this legislation does. The last thing we want is for Australian businesses to be confused or genuinely unclear on what is permissible such that the threat of heavy criminal law sentencing makes them wary of competing aggressively.
Australia has quite a record of applying civil penalties for price fixing. In November 2007 the Visy group of companies was fined a record $36 million for price fixing in the cardboard market. That case created quite a stir, not just because of the record fine but also because the judge said that every Australian had been harmed by the cartel each time they bought goods that had been moved in cardboard boxes. Other examples were the August 2008 agreement by Qantas to pay $20 million to settle the Australian liability for its involvement in an international freight-price-fixing cartel; the 2005 fixing of retail prices of petrol in the Ballarat area of Victoria; and 2004 price fixing in the abalone industry, also in Victoria. Indeed, in my own state of South Australia the Australian Competition and Consumer Commission instituted proceedings in the Federal Court against timber companies for price fixing and attempted price fixing of timber-estimating services in contravention of the Trade Practices Act 1974.

It is not in dispute that cartel conduct is comparable to other criminal conduct such as theft and fraud and, as such, warrants criminal sanctions. Following the line of the judge’s comments in the Visy case, it can be concluded that cartel conduct is comparable to theft because the perpetrators are robbing the community and consumers who purchased the goods and services affected by the cartel conduct. I recall recently seeing it described as ‘theft with a briefcase’. But, as I said earlier, we must get the dishonesty test right so as to deter actions such as those of Visy, Qantas, the abalone and petrol industries, the timber merchants and so on—all significantly different in the nature of their business activities—while at the same time not frightening out of business those corporations or individuals who are acting quite legally and competitively.

The principal purpose of sanctions against cartels is deterrence, but I question the need to make this a criminal action rather than a civil action as is presently prescribed and where successful action has occurred. At the very least, the penalty should take away the value of financial gains that would otherwise accrue to the cartel members and the inflation that would have been applied based on the risk factor of discovery and sanction. Calculating cartel gains for the purpose of arriving at an appropriate fine is difficult, and it is equally difficult to factor in a value of the probability of detection. Strong financial sanctions provide an incentive for cartel members to defect from their conspiracy and cooperate with the investigating authorities, and strong sanctions make leniency programs work.

A number of OECD countries have imposed very large fines, the equivalent of tens or hundreds of millions of dollars, against organisations in cartel cases. This bill prescribes for individuals a maximum jail term of 10 years and/or maximum fines of $220,000 and for corporations a fine that is the greater of $10 million, three times the value of the benefit from the cartel or 10 per cent of its annual turnover. I note that the member for Blair said that the penalty of 10 years is the same as that in the US. But their legal system is different from ours. The penalty in the US is often used in plea bargaining, a practice quite different from that here in Australia, so that comparison is not as valid as one might ordinarily think.

The penalties in this bill are in my view severe, but where do we draw the line in the allowance for the chairman of the ACCC to make a decision about what is a hardcore cartel and what is not? Does an agreement by stock owners and stock agents to have a minimum price at stock sales constitute a cartel? Because that happens at virtually every stud animal sale in the country, I am
not convinced that this legislation answers that question. What action is to be taken over the worldwide diamond cartel that restricts supply and stabilises diamond prices? I doubt whether this legislation will address that. What action is to be taken over OPEC, a very famous worldwide cartel that organises oil prices and supply and demand—although, as we have seen, with quite variable prices. Again these questions remain unanswered, perhaps because we are powerless against such cartels.

Mr HAYES (Werriwa) (11.15 am)—Cartel operations certainly undermine the market and they are certainly detrimental to consumers. Consumers suffer, small business suffers and the community as a whole suffers as a consequence of cartel behaviour. Cartel behaviour is where organisations will group together by agreement with a view to determining pricing, and that pricing could be input pricing or sale pricing—in other words, cartels will operate to exclude proper competition. One thing I would have thought had been reasonably consistent on both sides of the House is the view that supports and promotes competition as the basis for delivering the best results for consumers, the people in our electorates who we all represent. Manipulating prices and manipulating what the customers can receive or restricting supply—in other words, rigging the market—can only operate to the absolute detriment of the people who we represent and the market itself. It is for that reason that in the lead-up to the last election Labor was very firm in ramping up its position on the Trade Practices Act to address the issue of cartel behaviour, with a view to imposing jail sentences for those who were found to be guilty of such behaviour, because cartel behaviour is a scourge on our society; it is and should be regarded as a criminal offence.

The Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 makes it a criminal offence for corporations to make a contract arrangement or understanding that will contain provisions on fixed prices, restrict imports or divide or restrict the actual interplay of the market itself. The bill includes a maximum 10-year jail term for offences and also amends the Telecommunications (Interception and Access) Act 1979 to enable telecommunication interception powers to be used in addition to other available tools to investigate breaches of cartel offences.

As I said earlier, the reason for operation of cartels is to undermine the free flow of our market economy, and as a consequence it should be at the forefront of the mind of every member of this place that we must get this particular position right if we are truly to represent the free market economy for this country. Cartels have occurred in the past, and the previous speaker in this debate gave a number of examples of that. He went on to give a number of examples of cartel-like behaviour that occurs internationally. Unrestricted I am absolutely confident that cartel behaviour will once again emerge if there is a profit to be made. The whole basis of cartel behaviour in the first place is to extract a greater profit for those who actually participate in the cartel arrangement.

In Australia you can go to jail for relatively minor stealing offences. I do not say that in any way to demean our criminal justice system, but, having regard to what I suppose is relatively minor, we can compare that to the situation at the moment when people can actually be the beneficiaries of stealing or accumulating millions upon millions of dollars from consumers. At the moment such people face fines and face corporate action but do not face the harsh realities of our criminal justice system and, as a consequence, avoid jail sentences. This bill goes a long way towards addressing that.
After lengthy consultations with the community and experts in the field, the final draft legislation provides a term of up to 10 years in jail for such cartel behaviour. That means, by the way, that it is now up there with some of the toughest provisions in the world. A maximum 10-year jail term brings this into line with provisions in the United States and the current jail terms for other corporate crimes as well. This legislation needs to be tough. It needs to send a message in the clearest possible terms that you had better think twice about being involved in cartel behaviour and ripping off Australians, because we are committed to doing something about it. We are committed to actually punishing those who are found to have participated in these actions with what would be regarded by consumers as the appropriate penalty.

We are here in this parliament representing those very consumers. We want to protect those people who are the victims of cartel behaviour. That is why in the lead-up to the 2007 election Labor committed to implementing the Dawson review recommendations, and that is specifically to introduce jail terms for serious cartel behaviour. Not that we wish to be political about this, Mr Deputy Speaker, but I think it is a matter of record that the former Treasurer and member for Higgins had once committed to introducing this important reform into the Trade Practices Act but somewhere in his period of office as Treasurer it seemed to be overlooked. For all the time of the Howard government—despite its having a position which I understood was a mandate but maybe not, and despite having a commitment to introduce jail sentences for serious cartel behaviour—that never ever eventuated. On the other hand, throughout that whole period members opposite will recall that, in debate after debate in this place on the Trade Practices Act, and particularly with reference to the Dawson inquiry, the Labor Party has always had a strong and supportive position on any legislation that would criminalise cartel behaviour.

Back in 2003 the Dawson committee review into the operations of the Trade Practices Act recommended the introduction of jail terms for serious cartel conduct. It was one of a few recommendations that was actually made arising out of that review. As I said, the previous government sat on its hands while the rest of the world updated their laws in relation to the fight against anti-competitive behaviour. Other countries across the globe have already instituted such measures. The United States, the United Kingdom, Norway, France, Germany, Israel, Taiwan and Canada have already instituted jail terms for serious cartel conduct, and it is about time the opposition supported this policy. As I understood it, it was at one stage the policy of the former government but it never came to fruition. So we welcome their support on this occasion.

The OECD on 25 March 1998 instituted an anticartel program with the adoption of the recommendations of the council concerning effective action against hardcore cartels. The OECD defined hardcore cartel conduct as anticompetitive agreements, anticompetitive concerted practice, anticompetitive arrangements by competitors to fix prices, to make rigged bids, to establish input restrictions or quotas or share or divide markets by allocating customers, suppliers, territories or lines of commerce. The OECD condemned hardcore cartel behaviour as a most egregious violation of competition law and called on all OECD members to ensure that their laws adequately prohibited such cartels and that they provide for effective sanctions, enforcement procedures and investigative tools with which to combat them.
The government has decided to increase the maximum penalties for cartel behaviour to 10 years to send a very clear message to those who may participate or seek to participate in cartel conduct. The maximum penalties for the offences are for individuals a maximum term of imprisonment of 10 years and/or a maximum fine of $220,000. For corporations it is a fine that is greater than $10 million or three times the value of the benefit from the cartel or, where the value cannot be determined, 10 per cent of the annual turnover. This government gave extensive consideration to the jail term. As members will recall, in the draft exposure bill released last year five years was being recommended. However, through consultation I think reflecting what the community view is with respect to cartel or cartel-like behaviour, the decision was made to increase that to a 10-year term as it better reflects the seriousness of the crime. In addition to that, it brings it in line with and makes it more consistent with other criminal law related to corporate related offences. A maximum 10-year prison sentence already exists for directors who wilfully defraud or deceive a body corporate, or for directors who fraudulently appropriate the property of a body corporate. The proposed 10-year jail term will also put Australia on par with the United States in having the world’s toughest provisions in respect of cartel behaviour.

There is a second aspect of this relating to the civil penalties that apply. They will move to a maximum of $500,000 for individuals and a penalty consistent with the maximum criminal fine for corporations. The Australian Competition and Consumer Commission will investigate all matters and be responsible as the law enforcement body, if you like, to investigate cartel-like behaviour in conjunction with other appropriate law enforcement bodies. They will actually run the brief of investigation. The Commonwealth Director of Public Prosecutions will be responsible for determining and physically making the prosecution of such behaviour.

That brings me to another aspect of this bill: the tools of investigation. Determining cartel arrangements is always going to be difficult. Cartels are normally a secretive exercise at best. They are not something where people advertise what they do, regardless of the fact that they might be wearing pin-striped suits. They are organised relatively covertly because of their need to avoid detection.

One of the biggest tools that we have at present for detecting serious and organised crime is telephone interception powers. Telephone interception provisions have been used by all states and territories and, as a consequence of a bill that passed this House last week, the Queensland police are now also able to access telephone interception powers in respect of serious and organised crime. As I say, the use of telecommunication interception powers is one of the most significant developments in law enforcement investigations.

Accordingly, this bill makes an amendment to the Telecommunications (Interception and Access) Act 1979 to enable the ACCC to seek to use intercepted material in relation to cartel investigations. That does not give the ACCC the power to initiate telecommunication interception, whether of telephone, email or SMS. It allows them to receive evidence that may develop from investigations of the Australian Crime Commission, the Australian Federal Police or other agencies that have access to that act, and to use that material in formulating the brief of evidence for making a prosecution under this act. That is certainly a significant development, and it shows not only that this government is clear in its position on and condemnation of cartel-like behaviour but
that we are giving those agencies responsible for detecting such behaviour all the necessary tools to detect, investigate and prosecute those responsible.

Mr ROBERT (Fadden) (11.32 am)—I rise to make comment on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. The government has introduced this bill to act as a deterrent to price fixing. Criminalising cartels will bring Australia into line with the United States, Canada and the United Kingdom, who have had similar sanctions in place for quite some time. Consequently, the coalition looks to support the bill.

The bill makes it an offence for a corporation to make or give effect to a contract, arrangement or understanding between competitors that contains a provision to fix prices, restrict outputs, divide or share markets or rig bids. The government has prescribed a maximum jail term of 10 years to send a clear message about such outrageously wide cartel conduct. The penalty for the offences is, for an individual, a maximum term of imprisonment of 10 years and/or a maximum fine of $220,000 or, for a corporation, a fine that is the greater of $10 million or three times the value of their benefit from the cartel or, where the value cannot be determined, 10 per cent of annual turnover.

The government, though, through speakers from the government side, have attempted to use this to indicate their support for free trade and a free market. The issue with this statement is that it flies in stark contradiction to a range of actions between the preceding weeks. Our Prime Minister—who has morphed from a fiscal conservative into a Christian democrat and now into a social democrat—in his 7,000-word expose on the evils of neoliberalism and free trade, would simply fly in the face of what members of his party have indicated here this morning. Neoliberalism is apparently the cause and the raison d'être for all ills within our current economic circumstances, according to the Prime Minister’s somewhat wonkish 7,000-word treatise. He fails to explain, though, why the Deputy Prime Minister stood up at a world forum to explain that our banking system was the envy of the world. So much for the failures of so-called neoliberalism, as they are described by this chameleon of a Prime Minister, who changes so rapidly from a social democrat to an economic conservative to something else! The question is: what will he become next? Will it begin with ‘M’ and end in ‘arxist’?

We have seen a department of deregulation put forward with the intent of trying to convince the people that this government is about further deregulating the market, yet in the 7,000-word treatise all we have seen is an attempt to reregulate because of the evils of neoliberalism. Somehow the Prime Minister forgot to indicate in his article that, of the 16 banks in the world with an AA rating, four are our four big banks and that, if the rest of the world had followed the regulatory environment put in place by the Howard market, there would have been very little fallout from a global financial crisis. We would not have seen the massive subprime loans, since under our regulation less than one per cent of loans were subprime, whereas, of the $2 trillion lent in 2006 by US banks, up to 25 per cent of loans were subprime. If the rest of the world had followed our regulatory lead, the economies of the world
would not be heading into recession at the rapid rate they are.

Our sense of the balance between regulation and free trade and the balance between bureaucratic red tape—which is still too high for my liking, coming from a small business environment—and regulation, combined with incentive and opportunity for entrepreneurialism, was the right one. Our economy, with its zero debt—prior to the Rudd government coming in to spend it all with their spending spree—and our regulatory structures were the envy of the world. If only the rest of the world had followed our lead. So forgive me, Mr Deputy Speaker, if I take the 7,000-word essay on neoliberalism and throw it in the bin, where it belongs. We are now faced with an era of big government and big spending—because the government are here to save the day, apparently. It would be nice if the government stopped spending money—and stopped racking up $9½ thousand for every man, woman and child—on many unproductive measures as part of their spending spree. For government members to use this bill as an example of their love for, delight in and embracing of free trade is a mockery at best and a complete sham at worst.

But back to the bill. The idea was first floated for the cartel provisions in 2002 under the Howard government. On 2 February 2005, the member for Higgins, the former Treasurer, Peter Costello, announced his intention that the government would amend the Trade Practices Act to introduce criminal penalties for serious cartel conduct. The Howard government had this on the agenda and on the radar for a number of years. The Trade Practices Act sets out a range of definitions of cartel conduct. It does this through a number of sections, although not overtly. This bill will specifically pertain to serious and hardcore cartel conduct. It has become necessary. As the OECD has now defined hardcore cartels and given businesses the opportunity to operate in a truly global marketplace, to align Australia’s laws with those of our OECD cousins does make a degree of sense, particularly to prevent cartels crossing international borders.

It is argued that the measures in this bill meet community expectations that a tough line should be taken with regard to cartel conduct. It certainly formed part of the Rudd government’s pre-election commitments—this is noted—and, as the final draft exposure bill reads, will place us in line with those other nations. The government believes that the new legislation will enable a proportional response to cartel conduct. Criminal investigations and prosecutions will be targeted at serious cartel conduct. The key elements of the bill include parallel criminal and civil prohibitions, a maximum jail term of 10 years, the criminal cartel offence no longer requiring proof of any dishonesty, telephone intercept powers being used to investigate suspected criminal cartel offences, and proceeds of criminal cartels able to be seized under the proceeds of crime legislation.

The only caution that should be offered in taking the cartel provisions into the Criminal Code is the challenge on who to charge. Do we go after the chairman of a company or its board of directors? Do we go after the CEO or the senior staff? Do we go after the head of purchasing, who should have known what the purchasing provisions were and what prices were being charged? Do we go after the head of logistics, who should have known where goods and services were moving to if indeed there was cartel activity occurring? Do we go after the head of strategy, who would apparently have had to sign off on it? Do we go after the chief financial officer and the core financial staff? Or, frankly, do you take the lot on?
The issue of who to charge within a criminal court is significant and serious. And, whilst the intent of the bill is to ensure that corporations deliberately engaging in serious and significant cartel operations should be held responsible and accountable for their actions, it is important to ensure that the people directly responsible, who knew about what was occurring, are those who face the criminal prosecution. The challenge of who to charge will be a significant challenge when this law is first put in place in the courts of the country.

Mr RIPOLL (Oxley) (11.41 am)—I rise today to speak on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. There is no doubt that everybody in this place would be opposed to the formation of cartels and would be supportive of government action, regulation and laws to prevent cartels from not only forming and operating but also, at their most criminal level, robbing people of their income. So I do not think it would be of surprise in this place that there would be broad support not only in the parliament but also in the community for action to take place in terms of cartel conduct and that that action should form the basis of having not only decent regulation and laws that provide for the abolition of such practices but also pecuniary penalties—and I would suggest that they be very serious penalties.

Often the message that needs to be sent to those who might want to rob people, to rip people off, to do the wrong things, to be anticompetitive, to set up cartels and to engage in other forms of anticompetitive behaviour is that they should understand that, if they do practise those behaviours, the penalties will be very serious—that there are pecuniary penalties and they face long jail terms. I think it is a fair and appropriate way to deal with white-collar crime and what is criminal behaviour from a range of people, regardless of their position or status in life or in the company within which they operate.

I note the previous speaker’s concern as to who you would take on. The member for Fadden, the previous speaker, asked whether you take on the lot—core staff, individual staff, CFOs, company directors, chief executive officers, managing directors and so forth. I do not know that that, in itself, is so much an issue. I think who you take on is quite simple. It is those people who actually made the decisions and took on that behaviour—the ones who created the circumstance. So it is the decision makers. They are the people you take on. And they are the people you send the message to, to ensure that cartel type behaviour does not go on.

I think it is also fair to say that cartels are an undesirable element of society across a whole range of activities and areas. At the worst level there are drug organisations and there is money laundering, criminal behaviour and people trafficking—all of the uglier sides of humanity where cartels operate. They also operate in a range of less insidious areas such as simple anticompetitive behaviour, whether or not in the fuel retailing sector. I am sure there are many different views in terms of how that operates. There have been investigations in the past by the ACCC and others and certainly by the community, which is concerned about the rigging of prices—petrol prices or the price of anything else—and there are other forms and other types of cartels. A cartel really is any type of anticompetitive arrangement between two or more businesses to fix prices, reduce competition, rig bids with collusive tendering, establish output restrictions or quotas, or basically manipulate markets to their advantage in an uncompetitive manner in order to receive some sort of advantage by dividing up markets and customers and doing a range of other things.
Not all of those practices are anticompetitive or collusive necessarily. There are arrangements in place which mean that sometimes some of those behaviours are not necessarily in the form of a cartel. It is good, though, that, after many years, particularly in the past decade, and after a lot of words, investigations, reports and discussions with previous holders of office in this place about what to do, at least some movement is forthcoming. There is some movement forward and the Rudd government will take on some of this difficult terrain and put in place legislation to deal with that. It can be done in a range of ways, and that is what this bill is about. I do not see this bill as some sort of closing off of the loops, which would forever prevent cartels from operating and would prevent anticompetitive behaviour, but I see it as a step forward, as a signal to business and industry, as well as to consumers, to understand that in the end we are on their side. We want to make sure that people pay fair prices and that there is fair competition as much as is possible to level out the playing fields, whether in retail—fuel or food retailing, or any other type of retailing—service provision or whatever the case might be.

That is why this Rudd Labor government is committed to criminalising this anticompetitive cartel type behaviour. It is understandable that in Australia you can go to jail for stealing relatively minor amounts of money, but you will not go to jail if you are a company executive who colludes with a competitor, setting artificial prices or locking out a competitor—maybe forcing them to go out of business and costing them money and jobs—and artificially setting high prices and basically stealing millions of dollars from ordinary Australian consumers. This is not just. There ought to be a way to deal with company executives who make very conscious decisions about their behaviour without considering what that behaviour will cause and create or who it will hurt and who it will impact on.

After lengthy consultations with the community and with a range of experts in the field, this legislation provides for jail terms of up to 10 years for such cartel behaviour and conduct as I described before. In global terms, that means that this bill puts Australia in line with some of the toughest regimes in the world when dealing with cartels. Up to 10 years is a significant penalty that I believe will go some way to being a very strong guide and indicator, to officers of companies and people who might assist others in cartel type behaviour, that this really is not on, that it is not acceptable, that it does attract penalty, that it is something that the Commonwealth and its agencies are focused on and that there are tough penalties if you get caught. The maximum 10-year jail terms will bring us in line with the United States’ current jail terms for corporate crimes of a similar nature.

This legislation needs to be tough. It needs to send the clearest message possible that, if individuals are involved in an international cartel ripping off Australians, if they are involved in a locally based cartel arrangement or if they are involved in any of this type of conduct or behaviour, there is a serious penalty for that behaviour. Sadly, I have to say that, coming to government in the past 12 months, we find ourselves having to deal with so many areas of policy where the previous government failed to act. It was not a failure of knowledge or a lack of demand from the community, from ordinary Australians, from experts or from reports; it was just a failure to act. That in itself is a crime. It is a crime to just sit back and allow...
businesses to fail, because this is what we are talking about in the end.

Anticompetitive behaviour—the locking out of small businesses, the driving of prices and business to the point where you drive one of your competitors out of business by cartel type behaviour—is a crime, and we in this place should always be conscious to do everything we can about it. We need to take some form of action, whether or not we get it right every single time and whether or not what we do fixes the problem immediately. We need to be more than just words. This bill moves in that direction. The people who stand to be hurt the most, those who are the losers if we do not act, are the Australian public—the consumers, the small businesses, the medium enterprises, those people out there who have staked their life savings on establishing a business and who are then driven out by some cartel behaviour from a larger competitor, those who find themselves with no avenue of redress and those who find themselves with no regulatory framework to assist them. The amendments and changes in this bill will provide people with those mechanisms.

Back in 2003, to be specific, the Dawson committee review into the operation of the Trade Practices Act recommended the introduction of jail terms for serious cartel conduct. It was a good recommendation—it was also a good report. It made that recommendation for good reason: it is a necessary step and is something that must be in place. This was one of the few recommendations for change to arise out of that review, but it was a very, very important one.

While the previous government sat on their hands, we are certainly willing to take on the fight against anticompetitive behaviours, against cartels, and we are willing to send a signal to the community that we are on the side of consumers and that there ought to be a fair and proper playing field. The absence of criminal sanctions for cartel behaviour was most notable in the Visy case, which related to price fixing. The cartel came to light following a request from Amcor to the Australian Competition and Consumer Commission for immunity from prosecution. Following the disclosure of the existence of the cartel, the ACCC brought an action in the Federal Court alleging that, between January 2000 and October 2004, certain officers of companies in the Visy group engaged in price fixing and market sharing with companies in the Amcor group, which was contrary to section 45 of the Trade Practices Act. On 2 November 2007 the Federal Court found that Visy, a listed Australian manufacturer of packaging, had committed 69 contraventions of the Trade Practices Act. In his judgment, Justice Heerey was critical of the cartel. He said:

Had it not been accidentally exposed, it would probably still be flourishing. It was run from the highest level in Visy … It was carefully and deliberately concealed. It was operated by men who were fully aware of its seriously unlawful nature. I will add to that by saying that, while I have mentioned Visy here, it is certainly not the only company that has been either involved in or investigated with regard to cartel type behaviour. There are companies and organisations that feel they can operate in this manner with impunity. In terms of their actions and the way they structure their business, they feel that somehow they are not part of moral, ethical, legal or other systems that mean they should not help themselves to the till, as it were. This legislation sends them a clear signal that we do not agree, that it is not lawful and that, beyond it not being lawful, it actually attracts some huge penalties, including jail. The court fined the Visy group of companies $36 million, including separate pecuniary penalties for the former chief executive and the former general man-
It is quite a serious penalty. As I have said, this bill will go further towards making it clear that there are very serious penalties now in place to prevent that type of behaviour.

The United States, the United Kingdom, Norway, France, Germany, Israel, Taiwan and Canada already have jail terms in place for serious cartel conduct, although that does not mean they actually prevent it. One of the great tragedies is that they do not necessarily prevent it. But in a law-abiding country, where we believe in the rule of law, we must all take responsibility and do the right thing. If we do not, sometimes there are small penalties and sometimes there are very large penalties. In the case of what we are doing here, there will be very large penalties. That is the clear message of this legislation. The message I want to get out in the few words I have to say on this is that basically companies will not be able to buy their way out of behaviour they have operated in line with for some time. Certain companies need to understand that there will be a much more serious penalty than a monetary penalty—that is, going to jail and losing your freedom—so I am very supportive of this bill.

I also want to commend the minister, the Hon. Chris Bowen, Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, for taking on this area. It is probably an undesirable area to take on, in some ways. It is a tough area in which to try to ensure that the right thing happens—to make sure you provide the right regulatory framework and that at the same time you do not create an anticompetitive marketplace by bringing in rules designed specifically to prevent it in the first place. I think we are conscious of that, and we are conscious of criticism that may appear. Certainly I am conscious of some of the nuances in trying to deal with very complex issues and often structures and arrangements that are easily concealed, which people may instinctively understand and know exist but would find it almost impossible to prove in a court of law or at some reasonable level.

It is tough for us, as legislators, to strike a balance between a strong regulatory framework, penalties and making sure we prevent anticompetitive behaviour—behaviour involving robbing people for monetary gain—and creating a robust, fair and competitive environment where companies feel free to make arrangements to compete fairly and hard in terms of being the best in the sector, the best in the market or whatever they want to achieve. That includes the fluctuation of prices, being able to compete on prices and being able to set lower prices and drive competitors down. So you need to strike a balance. I am very conscious in my mind of the necessary requirements to get it right.

I understand that in this place the pendulum swings. Sometimes it swings a little bit too much either way, and it is very hard to get it spot-on in the middle. But I am confident that what we have done here today with this bill will get the pendulum very close to a position of sending strong messages about strong penalties without, at the same time, creating an environment which in itself would exacerbate any problems that currently exist or creating loopholes and regulatory advantage for others who might see some sort of advantage in the new legislation. I think that we have got the balance right, that we are on the right track and that we have sent the right signals. I applaud the minister responsible for his efforts in this area.

On a more local level, I have been an advocate of consumer rights for some time—as probably every member in this House is in some capacity. On a day-to-day basis, we deal with ordinary Australians who come to us for help. They come to us for help when
laws or regulations have failed them, when business has failed them or where people who have a lot more power than them have failed them. When they come to us for help, it is frustrating—and I know I share this frustration with many in this place—that we do not have the mechanisms available to us to assist those people and get them proper redress.

Often, when people come to us with a problem—whether it is anticompetitive behaviour, whether they are a small business or an individual—they have been ripped off or robbed in some way. You know they are right. They can prove they are right. You know the company did the wrong thing, you know what the company did is completely unethical, immoral and wrong, or you know they have breached some regulation or code, but there just is not any capacity to whack them. And that is what you want to do. In the end, you want to be able to say to these people, ‘Well, you got away with it for long enough; you’re not going to get away with it anymore.’ To me, it does not matter which sector that is in—whether it is in fuel retailing or food retailing—or what the business might be. If you feel you have a cartel type capacity and the right and if you go down these paths, we will come after you. We will come after you with a very, very big stick. And that is 10 years in jail—some serious penalties—for individuals and organisations alike. I think the message ought to be clear and loud. This bill gives that message and I support it completely.

Mr OAKESHOTT (Lyne) (12.01 pm)—Mr Acting Speaker, I also—

The DEPUTY SPEAKER (Mr S Sidebottom)—I am ‘Deputy Speaker’; I am not acting.

Mr OAKESHOTT—Plenty are! Thank you, Mr Deputy Speaker. I also rise to strongly support the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 and its fellow legislation, the Federal Court of Australia Amendment (Criminal Jurisdiction) Bill 2008, which is passing through the other place. This is important legislation for all of us in the people’s chamber if we are here truly representing people’s interests. We were all elected by around 90,000 to 100,000 people; you can change the word ‘people’ to ‘consumers’. All of them are victims of theft and fraud at the higher end of business under the banner of cartel behaviour. The 150 members in this chamber should be and are sending a very strong message through this legislation that cartel behaviour is, hopefully, no more.

I strongly support this legislation not only for the impact it will have on local communities at the consumer end of the market, such as those on the mid-North Coast of New South Wales—with the theft at the checkout till that comes with cartel behaviour—but also for the many small businesses within the region I represent. It is a region in which 95 per cent of the business community is in micro small business—with fewer than five employees—without the united strength and lobbying and advocacy abilities to take on many of these issues. Therefore, it is the role of this place, and it is the role of government, to advocate and lobby and put in place good public policy that supports those many good people who are working very hard on the front line of the many small businesses, particularly in regional communities such as mine. Cartel behaviour impacts directly on them in the price they have to pay for products, which they are then passing on to consumers.

This is also important legislation from a theoretical point of view. We have heard speakers here talk about political and economic theorists such as Adam Smith. It is well known that cartel behaviour is the antithesis of the market economy. It is a reality
that we live in a market economy. There is political debate flying around at the moment about various interpretations of the ideologies of the market economy we live in: whether it is a welfare capitalist state or whether it is a neoliberal state. The reality is that Australia is a market economy and, therefore, one of the greatest offences under competition laws that could take place is cartel behaviour at the top end. It has at times had me wondering why Australia does not place the same significance on cartel behaviour as other jurisdictions in the world do. I have wondered whether it is our penal background, whether it is the larrikinism of trying to beat the taxman. I am not sure why we do not en masse see this as the offence that it is against all of us. We only need to look at some of the high-profile cases of the last 18 months and then look at the social pages of last weekend and we will see people who are self-confessed in cartel behaviour enjoying the social scenes and the A-list parties in the various capital cities. It is business as usual in many cases on that front.

People should be angry—people should be filthy—that they are fundamentally getting ripped off by cartel behaviour. Good, hardworking small business operators should be angry that they are getting ripped off by cartel behaviour. I hope members use the debate about this legislation as an opportunity to educate the community—with supporting comments in newsletters or local media—that this behaviour is the antithesis of the market and a rip-off for all of us. I hope that in the future, through that, there is better identification of people who are doing the wrong thing and who are living on the profits of what is fundamentally theft.

I am very supportive of this legislation in regard to the penalties attached. I have listened closely to some of the previous speakers and have been a little surprised at the attempt to walk both sides of the argument, that there is a need to somehow strike a balance and that there is somehow an antibusiness element to this legislation. I would strongly disagree with that. This is very much a pro-business piece of legislation because it allows business to operate in the free market and to operate transparently, with accountability, through the competition chain.

There are several prongs to a good, effective regime. That is why, whilst I am full of praise that this legislation is here and it is passing through this chamber and, hopefully, it will send strong educative messages to the community and business, I also hope government does not forget the complementary prongs that go with it. Firstly, there must be a really clear definition and there must be education within the business community. This cannot just be a series of what on paper are fairly punitive but welcome laws. Secondly, I would hope the soft hand of government goes with that, and that is educating the business community about the clear definitions of cartel behaviour—price rigging, price fixing, collusion—compared to good, robust competitive behaviour, alongside the hard hand as well.

Thirdly, along with good penalties and good education within the business community—and I am asking the government to strongly consider this—is the element of effective institutions which are well equipped to detect, investigate and prosecute cartels. We now have upped the ante significantly with the passing of these two pieces of legislation to the criminal jurisdiction. The standard of proof goes up. Cases in regard to cartel behaviour are already long, complex and difficult. By its very nature it is a secretive business that is going on within the concept of collusion, so it involves hard work to actually prosecute. That is where I would ask government to strongly consider the specialisation, in regard to the concept of the equiva-
lent of the untouchables, within the various agencies and institutions in chasing cartel behaviour.

I do think we are now at that point where, on behalf of people and small business, that specialisation within the various law enforcement agencies involved in taking this through to prosecution would be of value and would make a significant difference. As I mentioned before, we lag the world in lifting the standard of cartel behaviour. Whilst our laws sit very nicely and the penalties attached to them are very comparable with other standards in an international comparison, what is also coming through from some of that international evidence is that some agencies use the laws well and follow through to prosecution. However, there are other agencies which are not using those laws well, which do not have that strong enforcement arm and which are lax on taking these issues through to prosecution.

It raises the very obvious point: if we are going to bite the bullet on this issue, let’s back it up and let’s make these laws mean something and get some practical resolutions to the many issues that have already been talked about in this debate. All of us as local members get many complaints from people about the perception and the anecdotal evidence of cartel-like behaviour from the consumer end. There is that frustration, whether it is about dominance in the marketplace by petrol companies, supermarkets or whatever. It is anecdotal, but it is front-line consumer frustration. But now that we have set a very clear standard I hope government marries that with some good, strong law enforcement agencies backing these laws. I would hope it marries it alongside good education within the general business community as to what is and what is not cartel behaviour. If it is a genuine three-pronged attack on cartel behaviour—I hope it is not just a case of ticking a box—then more power to this place.

Ms SAFFIN (Page) (12.13 pm)—In response to the comment by the honourable member for Lyne that people should be filthy about cartel behaviour, I can assure him that people are filthy about it—and he knows this—particularly those of us who are consumers, and that includes small business and the over 10,000 small businesses that I have registered in the seat of Page. It is about the protection of them, as well as the protection of them as individual consumers. I also want to respond to the member’s comment about, in effect, putting in place effective architecture to allow investigation and prosecution to proceed. I concur with some of the comments that he made about the intention of this bill and the intention as stated by the responsible minister for competition behaviour, the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs, Chris Bowen. I want to respond at the outset to his contribution. It was a very interesting and informed contribution and I thank him.

I rise in support of the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. In so doing, I wish to thank the minister for two very specific things. The first is honouring the Australian Labor Party’s election commitment to introduce offences that criminalise cartel conduct. The second is, importantly, giving added protection to consumers by criminalising serious cartel conduct. I would like to make some general comments about consumers and consumerism in this debate.

The Rudd government has a commitment to ensuring that consumers are empowered in the marketplace; hence the advent of schemes such as Fuelwatch and GroceryWatch as well as other measures and this bill amending the Trade Practices Act. Empowering consumers requires government action and it requires it in key ways. Empowering consumers gives consumers the tools to both monitor and respond to businesses’ behav-
bour that is not in our individual, collective or commercial interest. Such behaviour may give us inflated prices, which is not good for the market, or rapidly rising prices and may include not passing on market fluctuations. Hence the need for monitoring schemes. Monitoring schemes are imperfect tools in an imperfect market, but they are tools that are necessary and they are one key part of what I call the armoury in the price and price-fixing wars. These schemes ensure that market distortions do not exist and give protection to consumers.

As a society, we do not fully see ourselves as consumers; hence there is sometimes a discord between what we are advocating, what is being advanced and how we see ourselves. Talking about ourselves as consumers is rather utilitarian, but we are consumers. The consumer is not a modern phenomenon but a rather ancient one. What is new—and when I say ‘new’ I do not mean new as of this week but new in a general and modern sense—are consumer protection and empowerment policies. The Rudd government has a strong commitment to those policies. This bill also brings consumer protection into contract commercial business law, which for centuries was largely left unfettered and untrammelled to operate in the market, and that does result in market distortions and anti-competitive behaviour. This bill is also about anticompetitive behaviour, some of which is already prohibited in the Trade Practices Act. That is what this bill addresses.

Some months ago I bought some wine from a local bottle shop owner—yes, I confess!—in a small town in my electorate. I shop as I move around my electorate; it is my little way of spreading a few dollars across the electorate and it is also my way of finding another way of engaging with the local small business owners—I sort of get to yarn with them. While buying the wine, the bottle shop owner told me that the franchisee of a larger bottle shop operation—and I am not going to name names here—had a discussion with him about agreeing on certain prices for certain items. That sort of behaviour could clearly fall into the anticompetitive behaviour that we are talking about. He said that he told them—and I will not repeat the exact words—to ‘shove off’ and that he was not into that sort of behaviour. He told them that he would run his business as a good local businessman. He did not want to engage in that. When we move around our electorates we could all exchange various stories like that. Such behaviour can sound rather innocuous but is actually stealing—and it is stealing in a way that also rips us off. Its intent and design is purely to cheat us, the consumers. It is wrong ethically and now, if it fits the element of the new offence that this bill incorporates into the Trade Practices Act, it is going to be wrong legally. That is the important aspect of this bill.

I will now turn to the offences, the elements, the investigatory and prosecutorial process, the defences and the consultation process of the bill. I know that the consultation process has been extensively covered, but I would like to say that it was a very effective consultation process. The consultation process went on over the last 12 months. All the relevant stakeholders were consulted and had an opportunity to comment and there was a draft exposure bill. The offence itself is as follows: ‘If a corporation makes or gives effect to a contract arrangement or understanding between competitors that contains a provision to fix prices, restricts outputs, divide or share markets or rig bids and includes the sum fault elements that apply under the criminal code of intention and knowledge or belief.’ The latter is important, and from what I have read a change from the draft exposure bill was the intent of dishonestly obtaining a benefit. This is the current burden of proof, and it puts it beyond rea-
sonable doubt, which is really important when we are talking about criminal behaviour. That means that serious and in some cases serial offenders will be caught. I will make a general comment here about lawmakers, and that is that we sometimes have a propensity to stray into wanting to import civil burdens of proof into criminal offences. That has happened before and is something that we should never do lightly. In fact, it is a practice that I eschew. It weakens a fundamental plank of our justice system that is at the root of our government system—that is, the rule of law. We as lawmakers should be ever mindful of and vigilant in this.

An individual will now receive a maximum jail term of 10 years, in step with other criminal sanctions in the Trade Practices Act, and a maximum monetary sanction of $220,000. For a corporation there will be a maximum monetary sanction of $10 million or three times the value of the benefit from the cartel or, where value cannot be so determined, 10 per cent of annual turnover. This brings our jurisdiction in line with other OECD countries, our trading partners and our ally, the US.

The amending bill also introduces corresponding civil prohibitions. Importantly, though, it makes sure that double jeopardy is covered in that civil proceedings will be postponed if criminal proceedings are afoot. If the prosecution is effected, the civil proceedings will be terminated. That is a very important provision in the act. It further introduces telephone interception powers so that the cloak of secrecy—or the wink and nod approach, as I call it—over cartel criminal behaviour can be penetrated.

The Telecommunications (Interception and Access) Act 1979 will be accordingly amended. I approve of this, but want to put on record my reservation about telephone interception. This is a general reservation that cuts across all areas: commerce matters, personal matters; in effect, just all areas. I also have a general reservation about privacy across all areas. Our modern society is rather devoid of privacy in practice, with the propensity to grant telephone interception access in all matters. Sometimes we can be too quick to impugn without closer scrutiny—not here—and again, this is my general comment. I heard a contribution from one of the opposition speakers who was talking about this very issue. I know that when we look at areas like anti-terrorism they were not as quick to make sure that those protections were in place. A scrutiny of bills committee that scrutinised liberties and rights—and these are rights of a civilised society—could do a lot to ensure the rule of law and just have a general second look in these areas.

I note that the ACCC will have the power and authority to investigate and that the Commonwealth Director of Public Prosecutions will, correctly, have the power to prosecute. I also note—and I forget the terminology in the legislation—there will be something like a standard operating procedure, which I call an SOP; a document made public that will articulate the way those two sets of powers and authorities will operate. That investigative power is a big power to have and I have no doubt that the ACCC has the competence to carry that out.

I say to my honourable colleagues, the opposition, that they did sit on their hands on this bill. They failed to act to give the necessary protections to consumers. The Dawson review that was commissioned by their government in 2003, and which was chaired by the eminent Hon. Sir Daryl Dawson, recommended such changes to the criminal offence of cartels but it was left to linger. It is no use leaving situations like this to linger because they are too hard, or too complex or this and that have to be weighed up. That is what we
do all the time in this chamber. This was just left there but we have picked it up and run with it. We have made sure that these protections will be put in place for consumers. It will give better effect to commercial operations, particularly to small business, and it is legislation that is long overdue. I commend this bill to the House.

Mrs Bronwyn Bishop (Mackellar) (12.27 pm)—In rising to speak to the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 I place on the record that I have always opposed converting civil offences into criminal offences. This bill is not allowing us to argue whether cartels are good or bad. Clearly, cartels are bad. They are also illegal. The question is: what do you do about the illegality? Do you think that civil penalties are sufficient or should it be turned into a criminal offence, thereby placing people in jail for up to 10 years as the bill proposes? From my point of view I can see no good argument to convert a civil offence into a criminal offence, particularly in the way this bill proposes.

When the bill was first proposed in 2005, it at least had a dishonesty clause in it that made it necessary to prove that there was a dishonest intent. That has been removed from this bill and there is really no good reason given for it except, I think, that this government does not really trust juries. You could say that the main criticism of the dishonesty provision is shown by this quote from the Scrutiny of Bills Committee Alert Digest:

The main criticism of the ‘dishonesty’ test is that it requires a jury to make a moral assessment by putting themselves in the position of a hypothetical ordinary person and assessing whether, according to the standards of ordinary people, the relevant conduct was dishonest. In addition, the test requires the jury to assess whether the defendant knew that his or her acts were dishonest according to the standards of ordinary people. This moral assessment has the potential to result in inconsistent outcomes.

Dare I say it: in the criminal jurisdiction we get so-called inconsistent outcomes every day of the week. Anybody who listens to talkback radio will hear precisely that, when they will hear what they think are similar circumstances, be it for murder, be it for robbery, be it for any criminal offence that is seemingly inconsistent in its outcome. So to dismiss the dishonesty test on that basis to me is fallacious.

I would also like to say that I am not interested in hearing these quotes from Mr Samuel, which I am hearing frequently, as to why this criminal change should occur. Since he has taken on the job of head of the ACCC, Mr Samuel, I think, has shown that he has no interest at all in the needs of small business and has been obsessed with criminally prosecuting those whom he personally wishes to punish. This has been amply demonstrated by the way criminal proceedings have been engineered against Mr Richard Pratt and by the way he defended the current government’s pathetic Fuelwatch scheme. He has no concern for small business issues. I will go on to those, particularly third line forcing and how decisions impact on individuals—in fact, there is a crusade to see this become a criminal offence.

The bill decides that we have to have a distinction between types of cartels. We are going to have hardcore cartel conduct and we are still going to have civil offences. The bill does not define what hardcore cartel conduct is, but the explanatory memorandum refers to the OECD definition, which says:

… an anticompetitive agreement, anticompetitive concerted practice, or anticompetitive arrangement by competitors to fix prices, make rigged bids (collusive tenders), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories, or lines of commerce.
Pretty broad, really. It could capture quite a lot of arrangements that people might enter into. What about a group of doctors who are operating, say, four separate practices? They decide that they want to assist one another by having someone on duty all the time so that somebody in need of medical attention can actually get medical attention and the other doctors can have a rest. But they might agree that they will all charge the same price whether they are on or off. That is cartel-like behaviour. They too could be subject to being in jail for up to 10 years, if it is decided that that meets the definition of hardcore cartel-like behaviour. Guess who makes the decision? The ACCC. There is a memorandum of understanding between the ACCC and the DPP, and it is the ACCC who will decide and cull out which cases it thinks might be the right ones to prosecute and will then go to the DPP. That is not my idea of the way criminal cases should be decided upon for prosecution.

A lot of comparisons have been made between cartel-like behaviour and theft. But there is no ACCC to decide if someone commits an act of theft. There is no third party over here that is going to make the decision whether or not it is criminal behaviour. It is something that is investigated by police and if there is a case made out it goes to the DPP, and the DPP decides whether the prosecution will take place or not. So we are not really comparing apples with apples; we are comparing apples with oranges.

Looking at the Bills Digest, it has a nice summary of ‘A quick guide to the criminal cartel provisions’. It says:

1. The criminal cartel provisions only relate to conduct which is described as price fixing; restricting outputs in the production or supply chain; allocating customers, suppliers or territories or bid-rigging.

2. Any other anti-competitive conduct which is already regulated by the TPA is not intended to be caught by the new provisions.

3. Even if a provision of a CAU—contract arrangement or understanding—relates to the above conduct it will not be a ‘cartel provision’ unless it also satisfies the ‘purpose/effect condition’ or the ‘purpose condition’ and the ‘competition condition’.

For a civil penalty, it says:

1. The civil penalty provisions only relate to conduct which is described as price fixing; restricting outputs in the production or supply chain; allocating customers, suppliers or territories or bid-rigging.

2. Any other anti-competitive conduct which is already regulated by the TPA is not intended to be caught by the new provisions.

And on it goes:

4. There are two civil offences—the making of a CAU which contains a cartel provision and the giving effect to a cartel provision contained in a CAU.

Under the existing law, you can actually involve yourself in some price-fixing arrangements if you are in a joint venture, and that is a legitimate defence. But under these new provisions there will not be any such defence, but there will be the provision of the ACCC to authorise joint venturers to enter into collusive type arrangements. More power to the ACCC. The ACCC is becoming a very powerful body and we are investing these powers allegedly in one person—unelected, appointed by a government of the day. There is not much recourse to judge his decisions to see whether they are good or bad.

Another anticompetitive practice that is illegal is third line forcing. The Trade Practices Act says so. But you can engage in third line forcing if you get permission from the ACCC, under an exemption in the Trade Practices Act, to do so. Coles and Woolworths both have exemptions from the third
line forcing provisions of the Trade Practices Act to have shopper dockets, and we heard from a contributor to this debate this morning that they now account for 44 per cent of all petrol sales in this country. They are technically in breach of the Trade Practices Act but they are given an exemption so that they can engage in that behaviour. My guess is that when the original exemption was granted nobody really saw the monster that it could grow into, with the independents being forced out of business.

As you and I and everybody else know, Madam Deputy Speaker Moylan, a subject of constant discussion is petrol prices and whether there is any collusive behaviour going on between the oil companies. We get report after report that says no, that could not be the case. People continually ask questions about Coles and Woolworths and their impact on the price of foodstuffs. We always get a report that says, ‘No, this is just fine,’ but when you do comparisons between the way food prices have risen in this country and the way they have risen in other countries of like nature you find that ours are way out of kilter and far higher.

So it is a very grey area; yet we have this determination to make it a criminal offence—to put somebody in jail, which will somehow mean that we will have a more competitive market. I, quite frankly, do not believe that. I think that financial penalties for this behaviour can be a quite adequate remedy. If we consider that they are not high enough, make them higher; make them such an imposition that they cannot be considered—in the words of some who want to see this become a criminal act rather than remain a civil offence with only a financial penalty paid—just ‘a cost of doing business’. How cynical is that? If the penalty is not adequate and can be judged a cost of doing business then increase it so that it becomes a cost that cannot be borne.

I have heard many members in this debate say, ‘They’ve got it in other countries, so we ought to have it here.’ I have never been impressed by that argument. We should always consider what is good for Australia, what will make our markets better. Every day we have people going out and buying engagement rings for their fiancées and thinking that the value of that diamond ring will be something they can count on. Why is that so? It is because there is a cartel in diamonds operating. Do we kick up a fuss about that on a regular basis? No. OPEC is a cartel but it is far too big for us to take on, so we just have to live with it. Within our own jurisdiction, dealing with our own companies, we are going to turn business people today into criminals tomorrow—when the big players in cartels simply are too big for us to touch.

I oppose this legislation because I would always oppose such legislation, whether it were to be introduced by us or whether it were to be introduced by this government. But I will say this: at least the legislation that was to be introduced back in 2005, when we were in government, had a dishonesty test. This government has chosen to remove it. There is only one reason that somebody would choose to remove it, and that is that they think it will be easier to get a conviction—that you will not have to trust in the good sense of a jury to make a decision as to whether there was a dishonest intent: ‘No, we cannot trust the jury; we might not get a conviction. So we had better remove it.’

I think that today, when this bill passes the House, will be a sad day. I do not think the bill will enhance competition in the market. I do not think it will send to people who would engage in cartel-like behaviour any more serious a message than they have now. But I do think that we are placing an enormous amount of trust in the ability of the ACCC and one man to make decisions, because although you might say the ACCC is broader
than the person who heads it it is quite clear, if you look at it empirically, he is the one who has much sway. I think that to place all this on someone without any proper scrutiny as to whether the decisions he is making are good or bad makes for bad law.

Mr RAGUSE (Forde) (12.43 pm)—It is interesting to hear the views of the member for Mackellar. I understand her concerns but I suggest that some of her accusations are unfounded. A number of the members this morning, including the member for Barker and the member for Fadden, talked about this debate as being something to do with the government’s economic stimulus package. It is not. The member for Fadden in fact tried to make it a debate about neoliberalism. It is not. The member for Mackellar seems to think there is some conspiracy with the ACCC. It is not about that at all.

In fact, this debate is about behaviour that we have known about for a long time and that in business circles and the community has always been of concern. The member for Mackellar herself suggested that there are a range of activities that should be outlawed. With regard to the issue of whether there should be civil or criminal penalties, in the debate today I will talk about some of the penalties that exist for individuals who knowingly—though perhaps unwillingly sometimes—make arrangements to take money, remembering that many representatives of large companies are on some sort of bonus payment system but that unlawfully getting money from other people is stealing. When bank robbers steal money they face criminal charges; it should be likewise for what we are talking about here today.

Just to bring us back to the amendments as they stand, the now Rudd government committed to introducing legislation that would criminalise cartels. The Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 will make changes to the Trade Practices Act 1974 and will operate to deter cartel conduct by widening the range of regulatory responses available. The bill will also bring Australia into line with our major trading partners such as the United States and the United Kingdom. Much of this bill has its origins in the 2003 review of the competition provisions of the Trade Practices Act that was chaired by Sir Daryl Dawson. The review acknowledged the growing international experience that showed that having criminal sanctions in place is an effective deterrent against serious cartel conduct. The Dawson review also recommended the introduction of penalties.

A cartel is an arrangement or understanding between parties that restricts dealings and competition. There does not need to be a formal written agreement between the competitors—there rarely is—there only needs to be an understanding. In some cases, as the member for Page recently said, it can be no more than a wink and a nod. Cartels undermine the forces of the market economy and divide markets, rig tender bids, and deprive other businesses and essentially consumers. Companies that collude in fixing prices are robbing business. We are in a free market and cartels do not subscribe to the ethos of business and competitive markets.

Competition is essential in ensuring that consumers can get the best product or service for the lowest possible price. Competition also enhances our productivity, which in turn enhances our standard of living. At the Cracking Cartels: International and Australian Developments convention held in November 2004, Graeme Samuel, Chairman of Australian Competition and Consumer Commission, the ACCC, described cartels as a cancer on our economy and as insidious and damaging behaviour. It is generally accepted that cartels in Australia cost businesses, taxpayers and consumers billions of
dollars in higher prices. Cartels also have the effect of constraining innovation through their support of inefficient production processes.

A number of cartels have been exposed in Australia in markets generating billions of dollars each year. If you consider this information in light of recent international studies which have found that the average life of a cartel is about six years, a cartel increases the prices of affected goods or services by an average of 10 per cent. Essentially a cartel is an agreement not to compete. Cartels only benefit those involved in the cartel. This affects consumers, businesses and the economy at a time when we least need it. We are all affected by cartels through a lack of freedom to choose and the increasing prices that ensue.

I am proud to say that the Rudd government has taken a strong stance on cartels and will not stand for them. The government and the ACCC need these laws in place to tackle cartels, a serious crime. But we also need the right prevention strategy in place. The minister in fact highlighted that cartels have been an issue for some time. The previous government committed to introducing this legislation but later reneged on this essential reform. While the rest of the world re-evaluated and updated their laws against anticompetitive behaviour the former government did not. Hearing the speech of the member for Mackellar, I maybe understand some of the reasoning behind that—but it was unfounded and untrue. The Rudd government is now delivering. The ACCC gave 15 separate warnings to the previous government, and unfortunately it was ignored. The ACCC gave warnings about the need for reform, and in particular the need for jail terms to be introduced for company executives who were involved in cartel conduct. I would like to commend the Minister for Competition Policy and Consumer Affairs for bringing forward this important legislation. I would also like to commend the minister for his extensive consultation process with stakeholders.

The key amendments in this bill are best explained in six categories. Firstly, the cartel provisions. The bill provides a definition of the term 'cartel provision' that will apply under the new criminal and civil prohibitions. In summary, a provision of contract arrangement or understanding can be a cartel provision if it concerns price-fixing, sharing or allocating a customer base, restricting supply or rigging a tender process. If at least two parties are involved or are likely to be in competition with each other then there may be a breach of the new provisions. Secondly, there are offences and civil penalties. The bill provides that a corporation commits an indictable offence if it makes or gives effect to an agreement that contains a cartel provision. The prosecution will be required to prove that the corporation knew or believed that the agreement contained a cartel provision. Individuals can be liable for a contravention of the new offence in one of two ways: they can be an accessory to the committing of an offence under the accessorial liability framework in the Trade Practices Act and they can also be held directly liable for the offences as provided for in the schedule to this act. The schedule offences mirror those in the act and are applied as a law of each state and territory through application legislation in those jurisdictions. The ACCC will be responsible for investigating suspected breaches of criminal cartel offences while the Commonwealth Director of Public Prosecutions will be responsible for their prosecution. A memorandum of understanding between the ACCC and the DPP will detail the responsibilities of each agency in criminal investigation and prosecution of serious cartel conduct cases.
Thirdly, the amendments detail penalties—jail terms, fines and pecuniary penalties. The maximum penalties that will apply for a breach of the government’s provision will be substantial. This reflects the government’s view of the serious harm caused to Australian consumers, businesses and markets by hardcore cartel conduct. Individuals face a maximum jail term on conviction of 10 years and a fine of 2,000 penalty points—currently $220,000. For corporations the maximum fine will be the greater of $10 million or three times the value of the benefit obtained as a result of committing the offence. Where that benefit cannot be determined, the maximum fine will be 10 per cent of the corporation’s annual turnover. A maximum 10-year prison sentence already exists for directors who wilfully defraud or deceive a body corporate or for directors who fraudulently appropriate the property of a body corporate. The proposed 10-year jail term will put Australia on par with the United States as having the world’s longest jail terms for this serious crime.

Under the civil penalty provisions there will be a maximum $500,000 penalty for individuals and a penalty consistent with the maximum criminal fine for corporations.

Fourthly, the amendments list exceptions. The Trade Practices Act currently provides a number of exceptions and defences to the prohibitions against anticompetitive behaviour. I think the member for Mackellar should probably have read about the exceptions, because they certainly cover a number of the cases that she spoke about and had some concerns about.

Similarly, the bill provides for specific exceptions to new prohibitions and they fall into six categories: conduct notified under the collective bargaining regime in the act; contracts containing cartel provisions subject to the notification provisions or a grant of authorisation; contract arrangements or understandings between related bodies corporate; joint ventures contained in contracts; anti-overlap exceptions; and the price of goods or services collectively acquired and the joint advertising of the price for resupply. The exceptions are intended to ensure that the prohibitions do not prevent legitimate business activities that are beneficial to the economy or in the public interest.

Fifthly, there is enforcement. One issue the government consulted widely on was the application of telecommunications interception regimes to the new offences. Cartels pose particular problems for enforcement agencies because they often involve multiple parties operating in secret with limited documentary evidence and enhanced reliance on oral communication. In these circumstances the discovery and proof of a cartel can be difficult, with regulators often taking on proceedings without the benefit of direct evidence of cartel conduct. While we say that, I do understand the concerns of the member for Page about this type of monitoring. Essentially it is also the notion of a wink and a nod, and somewhere along the line interception to understand what conversations are taking place can be of some value.

After consideration of the issues involved, the government decided that applying the telecommunications interception regime was appropriate. In addition to the benefits this will provide for the detection and prosecution of illegal cartel conduct; the use of telecommunications interception powers can be a means of finding evidence of the directing minds behind corporate criminal behaviour. Further, the bill makes amendments to ensure that the search, seizure and information-gathering powers of the Trade Practices Act are better aligned with equivalent provisions in the Crimes Act.

Sixthly, there are the additional measures. Other arrangements supplement the cartel
conduct measures contained in this bill. These include giving the Federal Court jurisdiction, together with the state and territory Supreme Courts, to deal with the new offences. This will be the first time the Federal Court has been given indictable criminal jurisdiction, recognising the expertise the Federal Court has developed in dealing with cartel conduct as a result of hearing civil cases under the existing provisions of the Trade Practices Act. The Director of Public Prosecutions and the ACCC will enter into a formal, publicly available memorandum of understanding to establish procedures for the investigation of a cartel offence and the circumstances in which the ACCC will refer the case to the DPP for prosecution.

If we take the issues surrounding cartel activity back to our own electorates and those people that we represent, I have spoken many times in this chamber about the diverse nature of the electorate of Forde but in this case I refer to the small business operators, many thousands of them who make up substantially the electorate of Forde. These are building contractors, retailers, service industry providers, who are all hurt by this sort of cartel activity that certainly puts an unnecessary burden on the way that they run their business. The nature of cartel activity means that many people do not know that it is actually occurring. Quite often we all get suspicious about certain price regimes and about how a certain type of marketing occurs. It is terrible for small business.

I should say that the opposition have always suggested that they are the party of business. In this case we on the government side support small business, as we do all business. This is an important piece of legislation simply because people who are in that vulnerable situation can be protected. The legislation proves that the Labor government will protect both small business and consumers, and that is why it is so important that we proceed with haste with this particular bill.

When we talk about productivity measures across industry, different governments at different times have imposed different legislation or processes on small business and the business sector, whether it is about increasing productivity, efficient business practice, structural adjustment or labour market reforms. When it comes to cartels, it is insidious because no-one follows the rules. It is very much about people making their own deals to the benefit of individuals. I make the point that there are a large number of companies who have been caught up in this type of activity where their representatives, without naming those major companies, have in recent times had certain convictions. Reputation affects everyone. It affects the customers and also executives and workers who work within certain companies. I should mention one notable case in Queensland that took almost 10 years to try and convict. It was to do with certain cartel activity amongst concrete providers in some dealings between 1989 and 1994, five years of activity that essentially fixed prices on concrete being provided to public works in Queensland. It was a major case with a lot of publicity and it took 10 years to get to a conviction, where the outcome was penalties of over $20 million shared between three major providers of concrete.

In South-East Queensland and certainly in my electorate this sort of activity does take away local business. Those contracts to government at the time were so insidious in the way that they had been arranged, involving public investment in infrastructure in Queensland between 1989 and 1994, and a lot of money went into cartel activities. The proof was very difficult. The evidence to put this into court proved that there were over 50 meetings. The individuals involved knew that this was cartel activity but they very
much thumbed their noses at the authorities because they did not believe that they would be caught. Under our legislation, these sorts of convictions can occur very quickly. We can gather the information more readily and there are specific subsets now that will prove that the activities are illegal and we can take those to trial.

While the particular case in Queensland was successfully tried, there are very few considering the amount of cartel activity that we all suspect is occurring. I again remind the member for Mackellar that it comes to the point where the criminal component of this particular legislation is essential because we have not been able to convict those individuals who actually sit behind and drive this sort of activity, those who bring into dispute not only the companies they work for but also other workers within those organisations. I remind the member for Mackellar that if an executive in a company makes a deal with an executive in another company and those people are on bonus payments or benefits, essentially they are stealing money; there is no other way to describe it. So I think the Criminal Code plays a part in how we deal with this sort of activity.

In my concluding remarks, I say that the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 honours an election commitment by what is now the Rudd government. Cartel conduct is theft and previously has not been treated as a severe crime. Adding a jail term for committing a cartel offence sends a clear message: commit the crime and do the time. This amendment is long overdue and also works on a prevention strategy with the ACCC and the Commonwealth DPP. At the end of the day, this is about protecting consumers, particularly in our current economic situation. It is important to provide and stimulate competition. For these reasons, I commend the bill to the House.

Mr KATTER (Kennedy) (1.00 pm)—I rise to speak on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. It never ceases to amaze me how facile and superficial the approach in this place is on issue after issue. There is no depth of understanding. There is no effort made to even come remotely close to the situation that exists. People have been watching too much television. They want to run around all the time and find some bloke with his hands in the cookie jar. That is not the way it works. The way it works is that, if you own 85 per cent of the marketplace, you can do what you like. There is a lovely name for it. It is not called ‘collusion’; it is called ‘conscious parallelism’. If Woolworths know that Coles are charging 293c a dozen for eggs, they would be bloody mugs if they charged 291c a dozen for eggs, because that might just touch off a bit of a price war, wouldn’t it?

One of my relatives owned a very big supermarket, and he said: ‘They never compete against us on price, but their lady comes down every morning and checks out our prices. She just walks in with a notebook and jots down all our prices. So long as we are not being naughty, if they want a price war, of course they’ll blow us clean out of the water, but they don’t work that way; it doesn’t suit them to work that way. They know that in the end we will go under and they will prosper.’ I do not like using people’s names without their permission, but in the particular town to which I am referring they did eventually go under and were bought out, luckily for them, by Coles. So now we have Woolworths, Coles and nobody else, whereas 15 years ago we had three locally owned supermarkets.

What this means in a town the size of, for example, my home town of Charters Towers is that when we wanted a professional rugby league player I took one block, another per-
son took another block and a third person took another block, and we would come back with enough money to pay the salary for a rugby league player for that year, which was about $50,000. We would have no trouble in raising that. If we did that now in Charters Towers, we would not be able to raise $2,000. None of those businesses are left. They have all gone. The business all resides in the Woolworths and Coles that sit in Charters Towers.

Successive governments are responsible. I am not blaming the current government—but the Labor government of Mr Keating have got plenty to answer for. He was the architect of economic rationalism. He was the architect, founder and father of it all. Let us have a quick look at his handiwork—and, I must say, the last government continued his work magnificently well. The story starts in 1991, when Woolworths and Coles had 50.5 per cent of the Australian market. That is all they had. At that point in time they were not powerful enough to take the government on. We can say that it will be a pretty courageous government that will take them on now.

There are four faces up on Mount Rushmore. There are George Washington, Thomas Jefferson and Abraham Lincoln, of course. But the fourth one was not one of the founding fathers, nor did he abolish slavery and keep together the United States. No. What was he up there for? I will tell you what he was up there for: because he took on Rockefeller. He blasted Standard Oil of New Jersey into 23 separate companies. The man had most extraordinary courage, tenacity and belief in morality. He had made his name as a crime fighter in New York. He was Theodore Roosevelt. Amongst his many other attributes, he was one of the few people in history to stand up to the big corporations.

Mr KATTER—It was called trust-busting legislation, and it broke Standard Oil of New Jersey up into 23 companies. Fifteen of those companies were still amongst the top 20 companies in the world in size; that will give you some idea of the dominance.

But in Australia this place had an inquiry. The ALP were on that inquiry; it was obviously dominated by the Liberal Party, who were in government then. The Democrats and, of course, the National Party were on that inquiry. Do you know what the inquiry came up with? It was that there was a bit of a problem. I do not think anyone will question what I am saying here. Fair market or market failure? is the name of the report, often referred to as the Baird report. It says, ‘There is a bit of a problem here and we can address it by doing certain things.’ Most of them involved hitting Woolworths and Coles over the wrists with a piece of wet lettuce. They were laughable.

They cannot be excused, because that very interesting document lays out the situation in other countries. I have just come in from the floods, so I have not had time to refresh my memory on this, but, if my memory serves me correctly, the nearest country to us in centrality and concentration of ownership was the United Kingdom. Three companies there had 25 per cent of the market. At the time this report was released, two companies had 68 per cent of the market in Australia. In no other country did the big two have even 15 per cent of the market, even in America, with Wal-Mart. So there was no excuse for those people. Their names will be remembered in the history of this nation with contempt, and so will the names of every person who served in this parliament then. Unfortunately, one of them happened to be me, but at least I will go down on the record as saying that this is wrong. There is no small business left in this country. They want everything. They have taken the florists. They have taken...
the butchers’ shops. They are after the news-agencies, and they have half got the news-agencies. They are after the chemists’ shops. There is nothing left. There is no room for anybody else in this society.

We have the hypocrisy of the people sitting on the opposition benches, coming in here over the last 12 years and preaching about how they look after small business. They presided over the death of small business in this country. Much worse still—and the chickens are coming home to roost now—they presided over the death of the farmers in this country. Whilst we can say that the supreme architect of all of this was Mr Keating, Mr Costello was his child—in every philosophical sense of the word—and it would be a disgrace if he were brought back into this place with his reputation.

But let me be very, very specific. In 1992, before the deregulation of the egg industry, consumers paid 185c a dozen for eggs. By 2002, the price had risen to 293c a dozen. Does that speak of a free market system? I do not think so. Whilst the price for consumers had gone up nearly 100 per cent, the price to the farmers did not go up at all—it actually went down. There are those in this place who would say, ‘CPI rose in that period.’ Well, it did not rise for the poor farmers; it went down for them. So the people in the middle—and I am not saying that Woolworths and Coles got all of it—picked up an extra $300 million a year. People ask, ‘Where’s all this coming from?’ And I say, ‘Follow the money trail; that will tell you where it came from.’

They deregulated sugar. They deregulated us. In 1994-96, before the deregulation, consumers paid $201 a tonne. After deregulation, consumers paid $232 a tonne in 2001-02. By the way, these are average figures and I am not cherry-picking dates. These are average figures for a two- or three-year period. Did the price to the farmers go up 20 per cent? No, it dropped from $498 a tonne down to $279 a tonne. So the price to the farmers dropped in half, and another $350 million a year was picked up by Mr Piggy-in-the-Middle—and ‘piggy’ is probably the right word to use.

Now let me come to milk. The last speaker praised Mr Samuel. Well, well, well, praise for Mr Samuel. There would not be a small business man or a farmer in this country who would not spit on Mr Samuel. If I use strong language, I always say that the good Lord took to the moneychangers in the temple with a stick. These would make the moneychangers in the temple look like kindergarten teachers. But I will come back to milk. Prior to deregulation, the farmers got 53c a litre in New South Wales and Queensland. In Victoria, it happened over a longer period of time; it was a much more complex happening—and it was worse in Western Australia. So for New South Wales and Queensland—which is more than half of the Australian market—the price to the farmers dropped from 53c a litre down to 34c a litre. One of the reasons that the honourable member sitting beside me here secured 65 per cent of the votes is that he had the guts to stand up and say, ‘Mr National Party, you have betrayed us and you have betrayed my industry and my people.’ Whilst the price to the farmer dropped from 53c down to 34c, at the same time the price to the consumer rose 41c—from 115.5c a litre to 156.5c a litre. In the dairy industry, that was a figure of over $1,000 million a year.

So piggy-in-the-middle, with the great deregulation that was going to help the consumers of Australia, picked up nearly $2,000 million a year. I cannot remember what the CEO got as a bonus, because the shares went up as they were making all this extra money. There is not a decent person in this country whose nostrils are not violated by the smell
that comes from what is taking place here. And we have this piece of rubbish that we are dealing with here today. If you think that you are going to find anyone with a smoking gun, good luck to you, son, but I am sure it will not be Mr ACCC Samuel that will be looking for any smoking gun. He will be out there putting the smoke up so we cannot find the gun.

In fairness to the new government, one of the first things the Prime Minister did was take them on. It was pretty courageous—he took them on before the election. I want to praise him for that. It is the first time that I have heard anyone in this place take a stick to Woolworths and Coles. They took a big stick back to him—and good on him for standing his ground. We had an inquiry but, unfortunately, it was carried out by the ACCC. What a joke! A staffer of mine and I spent a week of our lives preparing, but I knew—in fact, I put out a press release about it—it was an absolute waste of time. What a farce it was! Mr Samuel came out and told us that there was no problem with the milk deregulation. I have just given you the figures—$1,000 million a year of extra profit went into the pockets of two or three people. And he says that there is no problem! But that is a story for another day.

When the report came out and said there was no problem, I went down to the local supermarket. The nearest one to us here at Parliament House is a Coles supermarket, and the price for eggs was $4.85 a dozen. The farmer got $1.40. I have been into egg plants. It does not cost a lot of money to transport and sell eggs. They are put in a little box and then put on the shelf. There is no cost there in transportation and storage, but there is a mark-up of about 300 per cent. We worked in clothing, and sometimes my aunty, who I love very much, would put the price up 70 per cent. I would say, ‘When daddy comes home he will not be pleased!’ But she would say, ‘Oh, Bobby—these are fashion goods.’ We would argue and fight about a 70 per cent mark-up. But the mark-up in the supermarket was not on fashionable clothing. This was a mark-up on food-stuffs—of 270 per cent! That is nearly a 300 per cent mark-up—and we are sitting here talking about ‘finding a smoking gun’. There is a nuclear explosion taking place out there; you do not need to go looking for a smoking gun. So, on eggs, there is nearly a 300 per cent difference. On potatoes, the farmers get 62c and the potatoes sell for $2.46. That is 400 per cent higher, so, again, a 300 per cent margin.

Here I must pay tribute to the Sunrise program and David Koch because he interviewed me, with all these figures, and then he interviewed Mr Samuel. Mr Samuel said, ‘You don’t understand that it is a very costly transfer from the farm gate to the shelves,’ and Kochie focused the camera on a bunch of potatoes! I mean, how much does it cost to take a bunch of potatoes—a lot of them grown only a couple of hundred kilometres from Sydney—down to Sydney and put them on the shelves? Potatoes do not go bad; they are not a perishable commodity. But, for anyone who watched it, the Australian people owe a great debt of gratitude to Mr Koch and the program because you could not have watched it without laughing. Mr Samuel just seemed to keep making a bigger and bigger fool of himself. He kept saying, ‘I am not a spokesman for Woolworths and Coles, you know.’ And, every time he said it, Shakespeare’s words seemed to leap out on the screen: methinks he protests too much!

With sugar, the farmers and the processors combined get 39c—about 32c goes to the farmers and about 7c to the processors—yet the price on the shelves is $1.35. Need I tell you that is a 300 per cent mark-up? With milk, it is 65c—51c to the farmer and about 5c for packaging—and the price on the
shelves is $1.99. Again, that is 300 per cent higher.

In the fashion trade, in clothing stores, there is a reason for such a mark-up: after a year you have to get everything off the shelves because it is all out of fashion. But 40 or 50 per cent were the sorts of margins that we were working with, so one nearly dies of shock when one comes to the margins that one finds here. One just has to recoil in shock.

I did not cherry-pick those items. I also had bread and steak. If you think about it, they are six commodities that every Australian would buy. They are also the major items in the basket of goods which is the CPI. There are 24 items in the CPI; those are the six major ones. I could not get the figures on the beef and bread, for reasons I will not bore the House with—it is much too complicated. But this is very interesting: three of those items are under statutory marketing arrangements or ‘orderly marketing’, if you like. ‘Orderly’ is a good word for it because in North Queensland, where a million Australians live, we send half of our milk down to Brisbane and half the milk that we consume is brought up from Brisbane! If that is not madness, I do not know what is. But that is the way that it is. So three of those items were under orderly statutory marketing arrangements. When they were under orderly marketing arrangements, the mark-up was not between 200 per cent and 300 per cent; the mark-up averaged 80 per cent. When people sat down and said, ‘What is a fair thing for the retailer to charge?’— (Time expired)

Mr ZAPPIA (Makin) (1.20 pm)—I have just listened to the member for Kennedy and, whilst I have to say that I agree with much of what he said—perhaps not all—I am not sure whether he supports the bill or not. But I rise to speak in support of the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. This bill establishes criminal penalties for serious cartel conduct, with maximum criminal penalties for individuals of a 10-year jail term and/or a fine of $220,000. For corporations, the penalties will be fines mirroring the existing maximum pecuniary penalties for breaches of the civil penalty provision—that being the greater of $10 million, or three times the benefit obtained if this can be determined or, otherwise, 10 per cent of annual turnover.

Criminalisation of serious cartel conduct, along with other provisions in this bill, brings Australia into line with a number of other countries in curbing cartel behaviour. This legislation is long overdue and comes more than 10 years after the Organisation for Economic Cooperation and Development initiated an anticartel program. Whilst serious cartel conduct is already prohibited under existing provisions of the Trade Practices Act, criminal sanctions do not apply, despite the previous government having had nine years since the 1998 OECD anticartel program was initiated. I noticed earlier in the debate that both the member for Isaacs and the member for Blair made this point very eloquently.

Criminalising serious cartel conduct is an important deterrent in such actions. It is clear that the previous government had absolutely no intention to ever introduce such legislation, even though they went through the charade of having the Trade Practices Act review committee, chaired by Sir Daryl Dawson, conduct a review of the competition provisions of the Trade Practices Act.

That review, known as the Dawson report, was released in April 2003 and recommended, amongst other things, that criminal sanctions should be imposed for serious cartel behaviour. The responsible minister at the time was the member for Higgins, who, de-
spite announcing on 2 February 2005 that the Trade Practices Act would be amended to include criminal penalties for serious cartel conduct, never followed through with his announcement. He was obviously overridden by the Prime Minister of the day. It is clear from listening to a number of opposition speakers on this matter that there would have been considerable opposition to the introduction of criminal penalties by other members of the previous government. So I am not surprised that the member for Higgins was never able to get the legislation up in this parliament. In fact, he never even got to the point of introducing it to parliament.

Cartel conduct transcends state and national borders. Globalisation and the dominance of powerful corporations and transnationals have made market manipulation much easier but far more difficult to prosecute. I note that the previous chairperson of the ACCC, Professor Allan Fels, made comments about that in publications that he put out. When markets are manipulated by powerful players, consumers are ripped off and less influential business competitors are often squeezed out of the market. In turn, that leads to an even greater dominance of the market by the larger entities, and ultimately greater consumer exploitation occurs, so much so that collusion can then occur without a word ever even being spoken, with dominant market players often having an unwritten understanding to not undercut each other. The member for Forde referred to that kind of behaviour as sometimes just a wink and a nod. He is absolutely right.

These are very difficult allegations to prove. Even with the new legislation, it will be very difficult to do so. I particularly therefore welcome the new provisions in the bill relating to the protection of whistleblowers and the ability to carry out phone tapping. It is highly likely that the exposure and successful prosecution of criminal cartel conduct will be reliant on one or both of these two provisions.

I also note that the government took on board concerns about the ‘dishonesty’ test in the draft legislation and has amended the bill accordingly. In view of the fact that many of the dominant market players are multinational companies, I also welcome the application of the Extradition Act to serious cartel conduct matters. There will no doubt be occasions on which extradition proceedings will be instigated.

Regrettably one of the key frustrations relating to this legislation is that, given the multinational nature of industry and business in Australia, serious cartel conduct may well result from activities in countries which either do not have criminal cartel conduct legislation in place or in which in any case it would be impossible for Australia to launch successful prosecutions.

The OECD definition of hardcore cartel conduct is:

... an anticompetitive agreement, anticompetitive concerted practice, or anticompetitive arrangement by competitors to fix prices, make rigged bids ... establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories, or lines of commerce ...

This brings into focus many activities which will be the subject of ACCC scrutiny.

In recent years the major supermarket chains—and I note the member for Kennedy made a number of points about the major supermarket chains—the large oil companies and the major banks have all been the subject of considerable public disquiet and government scrutiny over their respective business practices. There is, however, as much likelihood that serious cartel conduct is occurring across many other business sectors and going unnoticed. There are so many examples of goods or services for which the supply chain
I noted with interest that the Australian Competition and Consumer Commission, in the report of its inquiry into the price of unleaded petrol, proposed amendments to section 45 of the Trade Practices Act so as to clarify the interpretation of the term ‘understanding’. The ACCC expressed concerns that, over time, court decisions had narrowed the conduct that is caught by the term ‘understanding’, used in section 45 of the Trade Practices Act. The ACCC noted that, in many investigations, it will not have direct evidence of the making of an arrangement or understanding and must ask the court to infer the existence of an agreement from the factual circumstances surrounding it. I welcome the release, on 8 January 2009 by the Minister for Competition Policy and Consumer Affairs, of a discussion paper calling for submissions on the meaning and proof of the term ‘understanding’ in the Trade Practices Act. The review of the term ‘understanding’ complements this bill.

With respect to many essential goods and services, there is no price competition but only marketing competition. For consumers, choices are all too often made no longer on price differentiation but rather on marketing differentiation. In many other cases, there is no choice at all because there is only one supplier of the product because an arrangement is in place. The practice of having sole distribution rights for goods and services also raises questions about fairness in the marketplace.

Whatever form it takes, whatever goods or services are provided, abuse of market power is nothing less than theft and greed, with billions of dollars each year being ripped off from consumers around the world. Regrettably, some of the most obvious examples of cartel behaviour are beyond the reach of this legislation. The Organisation of the Petroleum Exporting Countries, otherwise known as OPEC, openly and unashamedly colludes to set oil prices and control the supply of crude oil. It is my understanding that the recent increase in the price of LPG has nothing to do with production costs or wholesale or retail margins but rather is to do with the oil producers bumping up LPG prices in order to push up crude oil prices, which, as we all know, have significantly fallen in recent months.

As a country that produces substantial quantities of oil and LPG, Australia needs to extricate itself from the Singapore Mogas prices and the Saudi Aramco price-selling regimes. But serious hardcore cartel behaviour is by no means confined to the oil industry. Over the years, investigations here in Australia by the ACCC and by its counterparts overseas have exposed serious market manipulation in the freight industry, the airline industry, building products, the pharmaceutical industry, the food industry, the agricultural industry, power generation and manufacturing—and there are probably others. This is only the tip of the iceberg. How many other sectors, including many of the professional service providers, collude through their legitimate professional or industry associations to set their fees and charges and to control entry into their profession? To quote Professor Allan Fels:

Sadly, the gains of cartel behaviour are so large and the likelihood of detention so small, some companies will still risk their hands—and their reputations and, perhaps, their livelihoods. Given that since the OECD report of 1998 only 15 countries have criminalised serious cartel conduct, and of those only 11 countries apply a prison term, one can only speculate on the level of influence global corporations have on government policy. I would prefer to believe that the reluctance by other governments to act is because of the great difficulty
in successfully prosecuting serious cartel conduct.

This legislation is another important step in stamping out serious cartel conduct and delivers on another Rudd government election commitment. It complements other amendments to the Trade Practices Act relating to the misuse of market power, unconscionable conduct and clarity in pricing. I also note that this bill has been the subject of considerable public consultation and that many constructive submissions were received from the legal, business and consumer sectors. The bill has also been referred to the Senate Standing Committee on Economics for report by 20 February 2009.

It was the Whitlam Labor government in 1974 that brought in the Trade Practices Act in its modern form in order to protect consumers and small business. I just want to stress that point on small business again. Other speakers have done so. As a person who operated a small business for a long time, I fully understand the competitive market that small business finds itself in. Time and time again, opposition members come into this chamber and would have you believe that theirs is the party that represents and supports small business in this country. Nothing is further from the truth. The member for Kennedy I believe quite eloquently exposed that very fact.

If you want to support small business, one of the most important things that you can do is enforce the provisions of the Trade Practices Act and consumer legislation in this country. It is only through enforcing those provisions that small business will survive. It is only through enforcing those provisions that small business will remain competitive. We can all refer to examples of where larger industries or larger businesses came into the marketplace for a while and undercut the small business operators to the point where they could not survive anymore. Once they were out of the market, we saw an escalation in the prices of the goods and services that they provide. We continue to see it today. That is how markets are manipulated.

It was the Whitlam Labor government in 1974 that brought in this legislation. It is 35 years later that the Rudd government is updating it and bringing it in line with the market of today. It is the Rudd government that is quite truly standing up for small business in this country. At the same time, whilst the government stands up for small business and supports not only the small businesses but the local communities that rely on those small businesses, it is also about standing up for the rights of the consumers.

Before being elected to this place and since having been elected to this place, time and time again I have been approached by both consumers and small business operators about their frustration with the manipulation of the retail market and sometimes the wholesale market. It is a frustrating position to be in when you know it is occurring but there is little that can be done about it. This legislation may not be the answer to the prayers of all of those people who want the government to act, but it is certainly an important step in the right direction, a step that will ensure that there is going to be more fairness in the market for both consumers and small businesses. It is legislation that is long, long overdue, and I commend it to the House.

Mr BRIGGS (Mayo) (1.35 pm)—I rise to support my colleagues on this side of the House in supporting the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. Obviously we believe that cartel behaviour can damage consumers throughout our country. During our time in government—and we can go back in history on this if we like—we strengthened and in-
creased the powers of the ACCC to deal with this type of behaviour. Again, I am thankful, as are many other members, particularly those on the back benches, for the work that the Parliamentary Library do and the notes that they prepare for bills such as this. I will read from the background notes in relation to the Trade Practices Amendment Bill 2008:

The Organisation for Economic Co-operation and Development (OECD) defines ‘hard-core’ cartel conduct more narrowly as:

‘... an anticompetitive agreement, anticompetitive concerted practice, or anticompetitive arrangement by competitors to fix prices, make rigged bids (collusive tenders), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories, or lines of commerce.’

We currently have provisions in the Trade Practices Act which of course have quite significant civil penalties for this type of behaviour. In recent years, we have seen these used quite publicly. They were highlighted in the Visy case in Victoria, which related to alleged price-fixing behaviour and of which it was found guilty in 2007, I think. There has also been much press interest and interest from people in the community about major organisations in the consumer area, such as supermarkets and petrol outlets, and claims in relation to whether they have engaged in behaviour which would lead to suggestions of price-fixing or cartel behaviour.

This of course gets to the nub of the issue: when does it become price-fixing, when does it become cartel behaviour and how can the intent behind it be differentiated? It is that issue that makes it very difficult for policy makers and for courts to implement. And while we support this bill and the measures—I note that the former Treasurer went a long way in moving down this track for criminal prohibitions—I have concerns about increasing the emphasis on criminal prohibitions. What we are really talking about here is the old Theodore Roosevelt maxim, which is: speak softly and carry a big stick. That is what this is really about; it is about giving the ACCC the power to threaten criminal prosecution.

I suspect in the next 10 years we will not see any criminal prosecutions under this act. I might be wrong. The member for Makin will probably disagree with me, and I am sure there is an Adelaide radio talkback host who would disagree with me very quickly—and senators as well. I suspect what we will see is the ability to use it as part of the negotiations to push for a settlement, as the ATO does. This is a tactic some would argue has been successfully used in certain cases to get an outcome which otherwise would have taken the courts years to decide. But I guess my concern is that that power is there.

The member for Makin talked about small business. What I am concerned about is that a government agency with this sort of power can act vexatiously with discretion. I do have genuine concerns about that. What we are talking about here are different shades of grey. If we have clear examples of cartel behaviour, that is different. But I think even in the most recent example of alleged price-fixing cartel behaviour in Melbourne, the most high-profile example, there are some of us on this side of this House—I know there are some on the government benches as well—who share a concern about the level of ferocity with which the agency has pursued a certain individual in that case. The concern I have with this bill—again, I indicate the opposition is supporting this and I support this bill—is that creating that additional stick or extra length on the stick means you encourage this type of vexatious pursuit of individuals at times. That concerns me for a couple of reasons relating to small business. I think there is a concern for the ability of small business to defend itself against government. The case we are talking about is not
a small business. It is a very big business with a very rich, powerful player, who is able to defend himself, I might add, and has done so very thoroughly. But I have concerns about giving the government far too much ability to pursue people to the point of putting them out of business.

The other aspect of this that concerns me—this is where I will disagree with the other side of the House; I am sure they will disagree with me—is industrial manslaughter type legislation, where you are holding people criminally responsible for actions potentially outside of their control. We do this through civil provisions, but to take that next step to criminal law has a whole set of implications which changes people’s lives. That is where we, as policy makers, need to be very cautious. It is all very well to spout the rhetoric that we need to crack down on people who rip Australians off and take advantage of their privileged positions in the marketplace and so forth. I accept all of that. However, criminal proceedings are a step above. They change people’s lives whether they are found guilty or not guilty.

Mr Champion—That’s why there are trials.

Mr Briggs—that is true. I agree with the member for Wakefield: that is why there are trials and that is how the justice system works, of course. But I am sure he will agree with me that even the accusation, the scent of it, still sticks whether you are found guilty or not guilty. That is where I am just simply raising concerns.

I do not think in our country that we should be discouraging good people from getting into high positions in business. As much as we rail against excesses and so forth, we should be encouraging young Australians to pursue business opportunities and to be entrepreneurial. We need to be careful. Members can scoff, but we, as policy makers, do need to be careful that we do not create a situation where we are putting good people off because the threat of criminal litigation is so much greater than that of civil litigation.

On that note, I will sum up. I will not hold the House up much longer. I am interested in the member for Wakefield’s contribution, as always—both on this bill and on these days when we are not into partisan attacks. I will refrain from any sort of partisan attack today. We support the bill, as we have previously indicated. However, I just add a note of caution about the level of power or the size of the stick that we give to government in pursuing small business people and large business people in this country.

Mr Champion (Wakefield) (1.44 pm)—I rise to support the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008, which is greatly needed and long overdue. I say to the member for Mayo that this is about stopping illegal conduct, not about stopping entrepreneurialism. Cartels undermine the very idea of a competitive economy. They keep prices at artificial levels, they lock people out of markets, they stifle innovation, they prevent moves towards efficiency and productivity and they enrich those who collude. They are hostile to the public interest, they are hostile to the Australian consumer and they are hostile to the Australian businessman and businesswoman.

As Professor Paul Kerin has observed, in small markets like the Australian economy the opportunities for collusion are much more available than in larger economies. It is much easier to collude in Australia than it is in the US. I think that is something that the man or woman in the street also knows. So it is important that we act and that we act with enough force to push the message home that this behaviour is completely unacceptable.
Cartel conduct is effectively extortion—often to the tune of millions of dollars. I cannot for the life of me see why a car thief, a bank robber or a person practising extortion should go to prison while company executives can walk free after colluding with each other to set artificially high prices and to enrich themselves in the process. Professor Allan Fels quite rightly points out that conduct of this nature is not a victimless crime. The victims are real people who are being cheated out of real money. This government will not stand by and watch Australians being exploited by white collar criminals intent on extortion by stealth. We will act.

This legislation is about punishing those people who do the wrong thing, but it is also about deterrence. It is about sending a message to Australian consumers that they do not have to put up with cartels any longer and also to individuals, whether they are based in Australia or overseas, that if you collude in this way then you are a criminal pure and simple, and the government agencies will take action against you. We make absolutely no apology for the fact that this legislation is amongst the toughest in the world. It establishes criminal penalties for serious cartel conduct. The penalties for these offences are: for an individual, a maximum term of imprisonment of up to 10 years and a maximum fine of $220,000; and, for a corporation, a fine that is the greater of $10 million or three times the value of the benefit from the cartel or, where the value cannot be determined, 10 per cent of the annual turnover.

Importantly, the bill allows for telecommunications interception as well as other measures to be used as an investigative tool against those who are suspected of collusion and also for the protection of whistleblowers who assist the ACCC in their investigations. These are important provisions because they deter people from acting and they also give the ACCC an ability to adequately investigate cartels.

These provisions will bring us into line with similar provisions in the United States. The United States is, of course, famous for its antitrust provisions, first introduced by President Teddy Roosevelt. The member for Kennedy also referred to Roosevelt; it did scare me a little that the member for Kennedy and I both went to Roosevelt when we were looking at this bill. Roosevelt said in 1911:

Not only should any huge corporation which has gained its position by unfair methods, and by interference with the rights of others, by demoralizing and corrupt practices, in short, by sheer baseness and wrong doing, be broken up, but it should be made the business of some administrative government body, by constant supervision, to see that it does not come together again, save under such strict control as shall insure the community against all repetition of bad conduct.

That was in 1911. Trust busting was part of a great campaign in the public interest, so I think it is timely that nearly 100 years later Australia is finally putting these provisions into our competition law. I think it is absolutely necessary, particularly when you look at the history of these sorts of practices.

The Dawson review into the competition provisions of the Trade Practices Act was completed in 2003 and recommended that cartel behaviour should, for the first time, be punished with criminal sanctions. Since then, the ACCC has issued warnings on 15 separate occasions that this sort of legislation was both necessary and urgent and that it would enable us to better deal with criminals at home and to cooperate with law enforcement agencies around the world.

The Labor Party heard these warnings and the Rudd government has stuck to its promise to introduce legislation within 12 months of coming to office. We hope that the parliament will take the opportunity to make up
for lost time, support this bill and give Aus-
tralian consumers the protections they de-
serve. After years of indecisiveness and inac-
tion, and after an inordinate amount of con-
sultation, it is now time to act.

When the government released its draft bill last year, the ACCC Chairman, Graeme Samuel, who has been referred to in other contributions, welcomed it and said that it was ‘a high point for 2008’. He told the Age newspaper that the legislation:

… brings us into the big league … It enables us to co-operate a lot more effectively with other regulators around the world.

The government is now taking action to make sure that these criminals are punished and that potential criminals are deterred from undertaking cartel conduct. Most impor-
tantly, we are ensuring that Australian con-
sumers are protected and that Australian businesses are allowed to function in a truly prosperous and competitive environment. I commend the bill to the House.

Mr BRADBURY (Lindsay) (1.51 pm)—I rise to support the Trade Practices Amend-
ment (Cartel Conduct and Other Measures) Bill 2008 and to echo the comments of those speakers who have come before me in relation to the matters that are contained within the bill. Clearly, the point has been made consistently, and I wish to reinforce the point, that cartels are, in many respects, one of the great evils when it comes to anticom-
petitive activity within the marketplace. Car-
tels, of their nature, undermine the integrity of the marketplace and run counter to effi-
cient outcomes within the marketplace.

It is essential that we have a robust regu-
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atory regime in place to ensure the proper op-
eration of the market, and that is why it has been well recognised throughout market economies over many years—and the mem-
ber for Wakefield certainly emphasised this point—that there is a very significant and important role for government to play in in-
tervening in the marketplace to set the pa-
rameters and to create the rules of the game, the rules of operation and the rules under which trade will occur so as to ensure that the market and its participants, or their inter-
ests, are not being compromised throughout its operation in the ordinary course of events.

I saw a quote from Warren Pengilley, who wrote an article titled ‘The law of collusion: aftermath of the Geelong petrol price-fixing case’, which appeared in the Law Society Journal. Mr Pengilley—and I think that this really encapsulates the essence of laws de-
signed to combat the activities of cartels— stated:

The law regards each marketplace competitor as being responsible for its own pricing decisions. The result of each competitor making its own decision will deliver, so economic competition theory runs, the best market outcome. This is because each competitor will seek to maximise its profit and make such decisions as are necessary to achieve this end. Conduct which complies with this concept is not illegal. It is when competitors seek to subvert this concept by making arrange-
ments between themselves on agreed outcomes that the law steps in.

The comments that were made earlier by the member for Mayo are, I think, to some ex-
tent rebutted by the extract that I have just quoted. The member for Mayo was indicat-
ing that he holds a concern that entrepreneu-
rial effort and entrepreneurial zeal will be discour aged by the introduction of criminal sanctions for those participants convicted of their involvement in cartel related activities. But it is an important process to follow through that there has to be a conviction, and of course the burden of proof in criminal matters, which continues to be the case in these matters, will be one of ‘beyond reason-
able doubt’. Clearly, the offence needs to be made out, and it is only after it has been made out that those who have been engaged in the sort of activity that Mr Pengilley has
so aptly described will then be dealt with according to the criminal law and the sanctions that are proposed within this bill.

The question that needs to be asked in relation to this debate is: why should matters such as these—that is, cartel related activities—be treated differently to other offences and other activities that effectively have the same substantive economic outcome? To clarify the comparison I am drawing: there are many instances in which individuals will seek to profit from others by doing things that effectively amount to stealing. We need to understand that collusion and the various activities that might be involved in cartel related activities amount to theft. It may not appear that there are victims, but there are victims of the crimes that we are contemplating in the course of discussing this bill. The victims are consumers. The victims are small businesses. Victims are right throughout the economy. Whilst to some extent they may be faceless and to some extent they may not even be aware that they are victims at the time when they are deprived of the money that these cartel related activities essentially rob them of—notwithstanding that—they are victims. It is in that context that we need to reflect upon the fact that these proposed criminal sanctions are essentially about recognising the gravity of these offences and the gravity of these activities. To participate in cartel related activities is essentially to participate in theft. The proceeds of the crime come from the larger amounts of money that consumers, small businesses and other individuals and participants throughout the marketplace are required to contribute in meeting the increased prices that flow through from these cartel related activities.

I think it is worth reflecting upon some of the acts and some of the offences that are currently on the statute books, not necessarily in relation to the Commonwealth parliament. In my home state of New South Wales, there is an offence, for example, under the Crimes Act, of ‘directors et cetera cheating or defrauding’. That is section 176A of the Crimes Act. That section reads:

Whosoever, being a director, officer, or member, of any body corporate or public company, cheats or defrauds, or does or omits to do any act with intent to cheat or defraud, the body corporate or company or any person in his or her dealings with the body corporate or company shall be liable to imprisonment for 10 years.

It strikes me that this offence, which is on the statute books in New South Wales and has been there for many years, is not seen to be a particularly exceptional offence. I have certainly never been approached by anyone peti-tioning me to either effect any change to this offence or to lobby others to do so. Essentially, I think that is because there is, right across the community, a consensus that activities of this sort are reprehensible, and it is because they are reprehensible that the law, through the imposition of criminal sanctions, seeks to deter those activities. It strikes me as rather strange to hear particularly those from the other side suggesting that sanctions of this sort should not be imposed in relation to those matters that might emerge from cartel related activities.

It is worth noting that these particular proposals have a long history. We can go back to the many discussions at the international level through the OECD. We can look closer to home at the Dawson review, and the many valuable submissions that I have seen that were made as part of that review. The Dawson review concluded—and I think this is of particular significance to the comments that I have just made—at page 19:

There was general agreement in the submissions made to the Committee that, notwithstanding the difficulty in arriving at an appropriate definition of serious or hard-core cartel conduct, it is sufficiently reprehensible to be punishable by the imposition of a gaol sentence.
It is that very element of there being a community consensus, a broad consensus—

The SPEAKER—Order! The debate is interrupted in accordance with the motion of earlier today.

CONDOLENCES

Victorian Bushfire Victims
Report from Main Committee

Order of the day returned from Main Committee for further consideration; certified copy of the motion presented.

Ordered that the order of the day be considered immediately.

Mr CHESTER (Gippsland) (2.00 pm)—I rise to speak in support of the condolence motion and I hope to draw on the strength of the heroes of Gippsland to help me express the enormity of the tragedy that has touched us all. Saturday, 7 February 2009 will always be remembered as the day that hell came to the paradise of the foothills of Gippsland. While the history books will record the bare facts, like the death toll, the homes lost, the extreme temperature and the hectares of forest burnt, they will struggle to tell the stories of so many heroes of Gippsland, and so many have emerged from this tragedy already.

So much has already been written and spoken about the emergency services crews at the frontline but, on behalf of Gippslanders, let me add my heartfelt thanks to the firefighters who have risked their lives to keep our community safe. While our CFA crews and Department of Sustainability and Environment firefighters are the most obvious heroes, they were joined by our police, ambulance personnel, medical staff and SES crews in their efforts to save lives in the face of the most horrendous fire conditions our nation has experienced. They were on the frontline, but we have had dozens of emergency services workers behind the scenes in logistics and allocating precious resources as this fire storm raged across Victoria, and the resources became more and more stretched throughout the day. Let no-one be under any illusion—this was a storm beyond the experience of firefighters from across our region. I have spoken to firefighters with decades of experience in Gippsland and they have never seen anything like it, but without their help it could have been far worse.

Yesterday I visited the tiny hamlet of Callignee or, to be more precise, I visited the site where the tiny hamlet of Callignee used to stand. The destruction there simply defies description. The community hall and school buildings are gone. Home after home is in ruins. There are cars which tragically became coffins. Enormous trees are blackened and have snapped in half, such was the ferocity of this storm. The land is scorched and was still smouldering several days after the fire front had passed. Where once we had rainforest and abundant beauty as far as you could see, there was an ugly scar across the landscape. You could only identify the place names by the charred street signs that were still standing. Every so often we came across families who had been allowed to return yesterday for the first time. They were searching through the rubble just trying to find anything, to salvage anything at all from the wreckage—some memento that they could cling to. They have lost so much but many of them would talk to us, either there or at the community meetings I attended, and they see themselves as the lucky ones because they have escaped with their lives. Almost bizarrely you would see sites like a swing set or a cubby house, completely intact, not a mark on them, yet 20 metres away a house would be in ruins. You would only be human to shed a tear as you consider the fate of that family or the children who used to play there.
Such was the nature of these fires that some homes were left standing where whole neighbourhoods were destroyed. It did not make sense and it does not make sense to the people who are returning there now. Tragically, people who still have their homes are feeling guilty because their neighbours do not have theirs. It is a horrible feeling for our community to come to grips with. We have lost more than 100 homes in Gippsland over the past 10 days, and we also believe that 21 people have perished, but we are not certain of those figures. The risk, though, is not over. As I stand here today, there are still active fire grounds, and many townships are on high alert in case the severe weather conditions return. As one of the wise heads of the CFA put it to us quite bluntly, only rain puts bushfires out in these forest type conditions. It is a great irony that in Australia today much of Queensland is under water. Our thoughts go out to the Queenslanders while much of Victoria lies blackened and in ruins. Our thoughts and our prayers are also with those who are still fighting these fires, with those who are fighting for their lives in hospital and with the people who are caring for them at the moment. It will take many months for them to return to full health. While the Gippsland fires are a tragedy of epic proportions in themselves, I am mindful that they are only one part of a more hideous disaster right across Victoria. It will take all of our strength, as a community and as members of this place, to overcome what lies ahead.

I said at the outset that there were many heroes of Gippsland emerging from this tragedy. The people of Gippsland are setting an outstanding example for us all to follow here in this place. The emergency recovery centre and Gippsland Emergency Relief Fund have been inundated with donations and offers of help. The business community’s contributions to those who have lost so much have been staggering, as has their release of staff for the volunteer effort. It is amazing the way the business sector and government departments are working hand in hand and working long hours, well beyond what is expected of these people. I know of one Red Cross volunteer who travelled for four hours from Cann River to Traralgon just to be there to help complete strangers and hand out food and toiletry packages for these people who have lost so much.

The shire council staff are working their own shifts and then volunteering their time on the weekends to assist just to ensure that the needs of their friends and fire victims are met. Friends and family members are opening their homes to provide comfort for those who have been left with just the clothes they were wearing when the firestorm hit. I have been to many community meetings where hundreds of people have filled the halls—because we still have that expectation that the fire may return—for the latest advice. People stand up and thank the CFA for trying so hard even though they have lost everything. They are there still saying thanks to those who have given so much to them. There are so many other heroes emerging from the tragedy across our region, from the ABC journalists and presenters who worked incredibly hard to keep us informed throughout what was a long, painful campaign of fighting the fires on Saturday right through to now—it is ongoing; the threat messages are coming out almost on a daily basis—to the people making sandwiches and supporting fire crews and neighbours helping out a mate by bulldozing a firebreak or putting out spot fires. The capacity of the community and the resilience of the community, which is on display in Gippsland and, I am sure, right across Victoria at the moment, is something which is quite amazing.

We should also spare a thought for those other heroes who are left with the hideous
task of sifting through the wreckage for the remains. Theirs must be the most difficult job of all and I am sure they will need our support in the months which lie ahead. And out of that wreckage have come some more heroes. It seems that every second person I have spoken to in Gippsland over the last three days has a remarkable survival story of their own.

Yesterday I spoke with a beautiful old lady who, I would estimate, is in her early 70s. She is only about four foot three, I would imagine. She simply trotted away from her home in Callignee and jumped into a dam. She was there for several hours all by herself and the fire, remarkably, spared her home. She was telling me what a hard time she was having getting the mud out of her clothes. I also met a teenage boy with a far more chilling story. He was part of a family of four. They were very well prepared. They had their fire pumps attached to their swimming pool. They had the vegetation slashed and hoses at the ready. They did not even get ember attack or any warning whatsoever. The wind changed, the fire rushed their way and they were met with a wall of flame. They sought refuge in their home as they had been taught to do. As it turns out, their home probably did save them but they were forced to race from room to room as each roof collapsed. Finally, at the end of the house was their rumpus room—luckily they had a pretty big house by the sound of it. The roof fell around them and they dashed out and jumped into their pool—where they had started the whole battle. When that became too hot, they also dashed to a dam and survived to tell the story.

Others told me of their confidence that they could handle a bushfire, that they were well prepared. They knew what the task was ahead of them but, when the wind changed on Saturday night and the fire descended on them in all its fury, they made last-minute dashes for survival—against all the advice that we have given them in the past. They had to get out of there, and they did, and they survived. As we know, of course, many people did not survive that last-minute dash. I have never been so proud of my community to see the survivors now volunteering their time and chipping in to help others who they regard as being less fortunate. It is an amazing relief effort on the ground at the moment. And it is the same story, I understand, being repeated across Victoria. There is unimaginable grief and destruction but it is coupled with those stories of incredible survival. There are so many heroes out there for us to celebrate.

I believe that this is our chance to all become heroes in our own small way. This is not about us; it is about the fire victims. This is no time for our political games. We must commit ourselves to helping those people to rebuild their lives. Towns like Callignee, Koornalla, Devon North and Boolarra in Gippsland are just like Kinglake, Whittlesea, Marysville and Flowerdale on the northern outskirts of Melbourne. These communities cannot be burnt off the face of the earth, no matter how fierce the firestorm. These communities live on in the hearts, memories, dreams and hopes for the future of the families who lived there, and it is our job to help them return, if that is their choice. We must stand shoulder to shoulder with our fellow Australians at this time as we all come to terms with the grief, the absolute anger and the disbelief that many of us are feeling at the moment. For those of us who are not directly impacted by this firestorm, we must be there to help pick them up and assist them in the hard times which will undoubtedly lie ahead for them all.

I would like to put on the record my sincere thanks to those members of parliament who have contacted me—including the Prime Minister, the Leader of the Opposition
and the Leader of The Nationals—to express their support for the people of Gippsland. There has been so much goodwill in the speeches I have heard as I have travelled throughout the fire hit areas of my electorate in recent days. We need to turn those kind words of support into action on the ground to help the heroes of Gippsland in the weeks ahead. I commend the state and federal governments for their prompt action—dare I say, Prime Minister, decisive action—to date, but our communities are already tired and this recovery will require months and years of effort and resources on the ground. My community, I know, stands united in its determination to rebuild, and we must not let them down.

Finally, I believe it is up to us to make sure that we learn from whatever mistakes have been made. Now is not the time for apportioning blame, but when hundreds of lives have been lost across Victoria, tough questions must be asked, and our community expects us to find the answers. I fear that we may have made the mistake of underestimating the force of these fires, and perhaps overestimating our own capacity to deal with them. The message of 'leave early, or stay and defend a well-prepared property' has been a mantra for more than 20 years—and I know that I have repeated it myself in media releases and in comments to my constituents—but it may be the wrong message on days like 7 February, when the fire risk, according to all the experts, was off the scale. I fear that there are some places which are simply impossible for us to defend on days of such extreme fire danger. I am not advocating forced evacuations—many people want that right to stay and defend their property, and I respect that right. They know it is their choice and they know that there will not be a CFA tanker at their doorstep to help them out in a crisis. But what I am suggesting is that we may need to have an escalated level of threat or warning. We need to let these people know that there is every likelihood that they may well perish if they stay in certain parts of our state on days when the fire risk is so extreme and fires erupt from whatever cause. Regardless of how well prepared they are, I believe that there are certain properties in parts of our state which are completely beyond defending. It is not a question of being wise after the event. I think it is an issue for the royal commission to examine closely, and I am sure it will.

I have spoken to many Gippslanders who thought they were ready, but when the firestorm hit they had absolutely no warning—and, again, I am not apportioning blame, they simply had no time to receive a warning—and no defences against the ferocity of the blaze which descended upon them. As I said, there will be a royal commission and I trust that the practical experience of these people on the ground will be listened to. We cannot allow so many people to have lost their lives in vain. I would also hate to see this tragedy used as a reason to depopulate regional Australia. We have an enduring love affair with the bush. It can be tranquil. It can be magnificent. It is a beautiful place for us to visit and in which to live, but on Saturday it erupted into a storm of unimaginable fury. For those of us who do choose to live in regional Australia, we must learn to live with the threat of bushfires and minimise the opportunities in the future for such a disaster to be repeated. But I must repeat that we must not use this as an opportunity to scare people away from living in regional Australia. We must let people return to rebuild as soon as is humanly possible and go on with their lives as best they can after such a tragedy. We need these people to remain in our communities—to continue making their outstanding contribution to the rich fabric of life in rural and regional Australia.
I have purposefully focused on the heroes in Gippsland rather than on the villain of this tragedy. Just last week, I spoke in this place about the community of Boolarra, which had lost 30 homes at the hands of an arsonist. We do not know who lit this inferno which killed so many of our loved ones, but it is regarded as suspicious and the police believe it was deliberately lit. It is an unspeakable crime that stands condemned by all right-thinking men and women. There is a seething anger in my community that we have a traitor in our midst. As much as we pray for those who have perished, we hope their killer is brought to justice. Too many good people have lost their lives already. The heroes of Gippsland did not deserve this.

Mrs MIRABELLA (Indi) (2.15 pm)—As a nation we grieve at the horror that continues to unfold in my home state of Victoria and I rise to support the motion and to pay my respects and express my deepest sympathies to those who have lost family members, loved ones and workmates. The sheer scale of loss of human life, as incomprehensible as it is, has horrified us all. I think it is true to say that universal grief has gripped our nation like never before during a natural disaster. We need to remember that every individual who did not escape the fires had dreams, had hopes, had plans. The fire did not discriminate between young and old. All these lives cut tragically short, leaving loved ones behind. The people who have left us are in our thoughts and prayers. All we can hope is that that knowledge provides some small comfort to those who are left behind.

In my electorate, we mourn the deaths of John and Sue Wilson. Like so many residents of the north-east of Victoria in the past, and many in the present, John and Sue stayed, defending their home in Mudgegonga, just north of Myrtleford in the Ovens Valley. To their children, Grace and Samantha: we mourn with you. It is hard enough for anyone to lose a parent; to lose both in such tragic circumstances can only compound the hurt and pain. The extraordinary conditions of this fire have shocked and tested even the most seasoned firefighters, both volunteers and professionals. This is the third fire in six years that has ravaged my part of the world—north-east Victoria. The scar tissue from the 2003 fires particularly has left an indelible mark on the landscape and the psyche of those living in north-east Victoria. In the days and months ahead we will struggle to quantify how these catastrophic fires of 2009 will impact on not just those areas affected in Victoria but the nation as a whole.

The main fire currently burning in Indi is described as the Beechworth fire and, to date, it has burnt approximately 30,000 hectares. This is in addition to over 900,000 hectares burnt during the 2003 and 2006 fires. The most recent information I have is that milder weather conditions have helped keep this and the Koetong Dry Forest Creek fire within containment lines at the moment. It is a great relief that the towns and residents in my local valleys and in my regions are not under immediate threat. We hope that—as the fires are contained, with improved weather conditions and successful back-burning operations—those communities will remain safe. But they do need to remain vigilant—as do many other communities in Victoria—because it is not over. At last count, there were 300 firefighters on the ground. But for every firefighter there are several volunteers behind the scenes: the communications personnel, the CFA members keeping the sheds and equipment in working order, the SES, others preparing the food—whether, yet again, it is the women’s auxiliary of the Myrtleford CFA or the local Red Cross or just mums and dads down the road who want to do something to help—those who are working at relief centres or others donating their time to feed cattle.
The tasks being undertaken by thousands of people across the north-east and across Victoria are limitless. The list of names runs into many pages. It is quite heartening that it is not only the long-standing residents of our area who are helping but many who have moved there recently. Only the other night, I was at the Chiltern relief centre and there were three young army wives who had recently moved with their husbands to our local facility in Bandiana. They were distraught; they did not know what they could do to help. They each looked around their home and collected everything they thought could be of help and delivered it to Chiltern. That is just a very small example of the emotion, of the desire and the need to help, right across our region and right across our state.

To all of the firefighters, to their families who support them, to the crews who keep them going, to the local communities, to the businesses who have given so much I give a very deep thank you. The lifeblood of our communities in rural and regional Victoria is our volunteers. They are our safety net. We could not survive, let alone thrive, without them. Scores of people, often whole families, stop whatever they are doing to play their part whenever a natural disaster hits—by helping their neighbours, by helping their town, by doing whatever is asked, and often even what is not asked, and by doing whatever it takes. It is humbling to not only be part of that community but also represent people who give so much of themselves in such an unassuming way. It is often those who do not have much themselves who give the most. They may not say much but their actions speak volumes. They are an example to us all in this House.

So much of the human spirit of Australia is displayed in those hours and days before official assistance, grants and programs kick in. Just one local example is the coordination of feed for local stock. Local farmers, who themselves have suffered years of drought—who have battled drought, bureaucracies and challenging world market conditions—have not thought twice about donating what, in dollar terms, is quite a sizeable amount of feed to their fellow farmers. A very special thank you to Stephen Street, who is coordinating that effort locally in Mudgegonga. It also gives me great pride to represent a part of Victoria where there are these self-starters, these people who do not wait to be told but do what needs to be done.

Still in shock, exhaustion has set in. I have been speaking to quite a few of our local volunteers on the ground. They have given me a few messages and they have asked me to pass them on, which I will do here today. They are all touched by the generosity of not only fellow residents of north-east Victoria but also people right across the nation and throughout the world. There is a very real and immediate need for counselling across the board, from the tough weather-beaten farmer to the impressionable young child.

I remember the emotional damage left by the 2003 and 2006 fires. Long after the cameras have gone and the media attention fades away, the scars are still there. The coordination of counselling is an urgent priority right across the state. In the weeks to come, many who have experienced the horror—including the volunteers, the police and Army personnel—will need help, whether it be an understanding ear from friends or professional help. Our communities must be equipped to make such help available. It is these intangibles that will determine, as much as the bricks and mortar will determine, how well and how rapidly our communities do recover.

Farmers have asked for help to get their farms operational again. In many cases it will take years for them to recover. They have asked for assistance in the form of long-term, low-interest loans; an extension
of exceptional circumstances; incentives for pasture improvement; help with the repair and replacement of fencing; cleaning and enlarging dams; and of course improvement in local telecommunications.

It is not the first time telecommunications has become an issue with bushfires across Australia, but we need to learn the lessons and learn them quickly. To take one local example, Trish Carroll is the communications officer for the Mudgegonga CFA Brigade. Mobile coverage in the area is very poor. Trish Carroll’s home telephone has not been operational for over a month and is still not operational. Recently, the Carrolls were told that their complaint issue had been lost in the system. Local people are angry and justifiably so. A usable home phone is beyond a basic need. We are in the age of talking about all sorts of advanced technological means of communication and equipment, yet we need to remember that, in many parts of Australia and many parts of Victoria—often rural areas—that are not as accessible as others, a basic home phone is the starting point.

Knowing that your neighbour, your elderly relatives and your children are safe and sound during these fires is an absolute priority. Needing this assurance, needing to know that, is an essential part of the human condition. The mobile phone bills for this period are expected to be horrendous. In the great Australian spirit of giving that we have seen right across our nation—again, often the poorest of communities giving the most—perhaps it is time for telecommunications operators to donate, for the fire season, the cost of the telephone bills of those living in fire-affected areas. Again, this is a specific idea and request that has come from my constituents. The same request has been made of large corporations providing petrol to local outlets to assist with the transportation of hay and other materials. Volunteers are using their own trucks, their own funds to pay for the petrol and diesel. Perhaps some assistance could also be forthcoming in that direction.

The coverage, information and dedication of the ABC right across Victoria has been commented upon in this House. I have to repeat that our local ABC personnel have been outstanding. They have formed part of the fabric of north-east communities, giving assurance and information, which were particularly important last weekend, amidst much anxiety and much fear. They give of their time and they are truly part of our local community. Police, local council staff, VicRoads, the ambulance service and the staff at the incident control centres have all been part of the local effort. A particular personal thanks to Tony Long and Rob Charwell, who have taken time out from their very important work at the incident control centre in Ovens to keep me updated about what is going on.

Many issues have been raised. The time for questions and investigations will come. Now is not the time for me to go into these details. But I will just flag that we should be guided by many discussions on these matters that have occurred in the past and by much of the discussion that will no doubt take place once we are over the horrific circumstances of the present time.

Our thoughts at the moment are with those still recovering. I pay special tribute to Fran Bailey. She is an extraordinary member for McEwen. So many of us have been touched by these tragic events over the last few days, and if ever there was a person who is a fearless and unafraid champion of the local people it is Fran Bailey. My thoughts are with her at the moment. A special thankyou to the leaders of our nation. To the Leader of the Opposition, Malcolm Turnbull, and to the Prime Minister: thank you both for caring enough to keep personally updated by con-
...tacting me and other members in bushfire affected areas.

Personally, I am relieved and grateful that the federal government’s assistance to rebuild our Victorian communities is uncapped and unconditional. That is the right thing to do. It is a mark of respect and humanity that we all, on both sides of the House, remain united and determined to do whatever is required to rebuild, to help, to support and, above all, not to forget. In commending the motion to the House, I note that this tragedy will go down in history as the worst natural disaster our nation has faced, and the appropriate response in due course needs to be of that scale as well. I commend the motion to the House.

Mr KATTER (Kennedy) (2.29 pm)—Our troubles pale into insignificance compared with what has happened in Victoria, but it is my duty to advise the House that northeastern Australia—not just North Queensland—has had the most widespread flooding in its entire history since settlement 150 years ago. Normanton and Karumba have had their second worst floods ever. Normanton and Karumba are up against the Northern Territory border—the midwest, as we call it. The Burdekin basin covers a lot of that area and about a tenth of the state. The Upper Burdekin has had its second worst flood in 150 years. Ingham has had one of its two worst floods. So whether it is on the coast, whether it is in between or whether it is up against the Queensland-Territory border, we have had record flooding.

We have only had three dead—maybe four—and we thank the Lord that it is not higher. But it is very important that I bring to the attention of the House the fact that we are only halfway through our wet season—we still have half of it to go if it is a normal season. All the rivers are full and all the ground is saturated, so every drop that falls now is runoff water. I was in Ingham yesterday afternoon and I can advise the House that the floodwaters there have receded.

How we look after the little people is a measure of our nation. The little town of Karumba is our only port in the gulf other than Weipa, which is right up at the tip of Cape York. So 2,500 kilometres of coastline has only one port, and that is in tiny Karumba. Karumba produces about $300 million worth of prawns a year and is a very significant tourist spot as well. Some 800 souls there are now into their fourth week surrounded by 15 kilometres of raging, crocodile infested floodwaters. Just on dusk the other night the Mayor of Georgetown crossed the river in a dinghy and counted some 23 crocodiles in the water—two of them most certainly were very large. Some properties have had crocodiles in their sheds. A very famous local grazier in the north, John Nelson, has told us that he has lost 1,000 of his 8,000 head of cattle. Those losses can be multiplied right across the board. We do not know the total extent of the losses. The last time we had flooding like this, two meatworks were closed and 1,500 people lost their jobs permanently.

There have been some especially unfortunate aspects to the flooding. I want to thank the Prime Minister and the Treasurer for buying into the situation on the weekend; we are very appreciative of them doing that. Up till then we had a situation where four Caribou aircraft were sitting at the airport whilst $10 million worth of produce was rotting in the sheds and cold rooms. There is just no excuse or explanation for that. By the time the orders came down—and we thank very much the Prime Minister and the Treasurer for this—and by the time they had got on top of the public servants, we had lost half a million dollars worth of that produce. Of course, the day that they agreed to use the Caribou was the day that the road opened. So you can...
read for yourself what was going on behind the scenes there. I do not say that by way of criticism. I am well aware of the situation that existed. I have been responsible for assisting with flooding in Queensland since 1976, and my family has been up there for four generations, so we understand the difficulties on the ground.

We do not know what the losses are to the sugar industry as yet. It may be 30 per cent throughout Ingham, which is the third biggest cane producing area in Australia, but we do not know at this stage. Sugar is still our 15th biggest export item overall; it is still a very significant item.

Having said all of that, it gives me no joy to say to the House that after four weeks there was no way of evacuating the people of Karumba at night. There was no casualty evacuation helicopter. They went for four weeks before a helicopter was placed there, and there were no helicopters with stretcher facilities even during the day. So if you broke a limb or had a heart attack then you were in very desperate trouble because there were no stretcher facilities on the helicopters that were there, and none of them could do night duty. One family had been waiting for two or three days for help. Nothing happened. A dinghy was going back and forth so they put their little two-month-old baby in the dinghy and for three hours went through raging, crocodile infested floodwaters 15 kilometres wide. That is not right. I do not hesitate to say that that is a criticism of the state authorities. For the little people who are out in the middle of nowhere, it is just not good enough.

Like the previous speaker, I thank the thousands of people in North Queensland who have stopped work and given their time to help others. When I flew into Ingham, there were probably 100 dinghies going up and down rescuing people, helping people out or taking supplies in voluntarily. We do not have quite so many crocodiles there but we are talking about raging floodwaters and we have already lost three or maybe four people.

I would like to leave the House with this message: we are only halfway through our wet season. February is by far our wettest month. It rains almost as much as any other two or three months put together. All our rainfall, which is very high in North Queensland as you are all well aware, only comes within four months, and we still have most of our wettest month to go, so we are very worried. The weather bureau has said that the low will move back in at the end of this week right across the north. So, far from being out of the woods, we are girding our loins for what could be a very difficult situation towards the end of this week.

We thank all the people who have made a very great effort. I certainly single out the Prime Minister and the Treasurer on this because we badly needed their intervention. They had their hands full down south yet they made the little bit of time needed to help us out and we thank them for that. There will be a lot of help needed.

I make this point to the House: there are many primary producers in North Queensland. For every one of these things that have happened to date, we have had a primary industry or agbank to give us loans with negligible interest rates that did not require us to make repayments for two or three years. This is the first time that we have gone into this situation without any of that available to us at all. Many of these people will be gone. They will sell up to ‘lifestylers’—which seems to be what is happening. Of the people who were putting trees in, I am told that three of the plantations have gone completely. All those people who were using those devices to dodge tax—but they were
closing our sugar mills—will obviously be paying a price for that. That bears mentioning because those sugar mills have got to stay open. Unless they stay open, thousands and thousands of Australians will lose their jobs. They are in very serious jeopardy, and this wet season will place those mills in even greater jeopardy. I deeply regret to have to say that some sort of financial package will be needed.

We thank very much the thousands of people who are risking their lives, particularly those in the Normanton-Karumba area, which is still under serious threat as we speak, and also the people of Ingham and all other affected places throughout North Queensland. This is not our most intense flood but it is the most widespread flood in our history and one of the two worst floods in the entire history of north-eastern Australia.

Mr BIDGOOD (Dawson) (2.39 pm)—I concur with all members of the House, particularly the members for Gippsland, Kennedy and Indi, in the condolences which we have expressed here today. All of us on both sides of the House stood in prayer on Monday with tears in our eyes. They were tears for the calamities that have befallen our nation in the north and in Victoria. It is at times like this that we stand as one people—one united Australia. I commend the Prime Minister, the Deputy Prime Minister, the Leader of the Opposition and the Deputy Leader of the Opposition for uniting as one great Australia to deal with these situations.

The Prime Minister sent the minister for small business, the member for Herbert and me north on Monday to give him an on the ground report of what is happening up there. The minister for small business went to Ingham, and the member for Herbert and I joined the minister for small business to attend meetings in Townsville with Centrelink and state government representatives. They gave us a report on how they were assisting the people on the ground in Ingham, in the electorate of Kennedy. What has happened in Ingham is far worse than anything they have seen before, as the member for Kennedy has said. I commend the services of Centrelink and the state government Department of Communities, who are doing an outstanding job there. We also commend our fantastic volunteers in the SES and the police, ambulance and fire services, who have performed way beyond the call of duty.

I have spoken to the mayors of Townsville, Bowen and Mackay and the Mayor of the Burdekin Shire Council. I have also spoken to many people on the ground in the Burdekin Shire Council. On Tuesday morning I addressed the Burdekin Shire Council and assured the mayor, Lyn McLaughlin, and her councillors that this parliament has not forgotten North Queensland. They took great heart from that.

The mayor from Burdekin took me to Giru, a small sugar town of no more than 500 people. Its main business is the Invicta sugar mill. As the member for Kennedy rightly says, sugar is a very big industry in the north of Queensland. I walked through the streets and met the people at the local neighbourhood store and the newsagency and I met the workers as they came out of the mill. They all said—every single person—’We have not suffered like the people of Victoria. Our suffering is nothing compared to that of the people of Victoria.’ The hearts of the people in the electorate of Dawson are open and they are giving substantially in donations to the people in Victoria. It is during these times of natural disaster that we see a great bipartisan Australian family and we all stand of one accord.

As well as the police, the SES, the ambulance service, the local leaders, the volunteer
groups, the Red Cross and Meals on Wheels, we must not forget communications through ABC local radio. They are just invaluable at times like this. I would also like to commend the role of community radio stations, particularly Burdekin’s Sweet FM. Mayor Lyn McLaughlin told me that they were outstanding in helping to get messages out to the local community. Radio is very important in North Queensland.

Along with the rains, we also experienced the highest king tides of the year. Having known what happened one year ago on 13 February, when the people of Dawson experienced the highest rainfall in 90 years, there was a lot of nervousness amongst the people. Thank God the rains were not as bad as last year. The king tides have caused extensive erosion along many shores from Townsville right through to Mackay. As always, when the heavy rains come the Bruce Highway takes a pounding. Yesterday, I travelled from Townsville for four hours, visiting all the towns down to Mackay, and I can report that there are certain sections of the Bruce Highway which have crumbled into potholes.

Places such as Yellow Gin Creek, Sandy Creek, Plantation Creek and Merinda are areas which traditionally always flood. I would like to report to the House the extent of the rain. As the member for Kennedy correctly said, we are only halfway through the wet season. In Townsville from 1 January to 9 February we received 1,350 millimetres of rain. The average for the year is 1,116 millimetres. In the town of Ayr, in the same period, 1 January to 9 February, 1,211 millimetres have fallen. The normal for the year is 931 millimetres. In Bowen for the same period, 960 millimetres have fallen. The normal average for the year is 788 millimetres. This shows how our weather patterns have changed and the seriousness of the calamities which are before us.

I would like to join with the member for Kennedy and the member for Herbert, and I would also like to acknowledge the member for Leichhardt because his electorate has suffered extensive flooding as well. The people of Dawson stand with the people of Victoria in a very bipartisan fashion. Our thoughts and our prayers go out to all those who have suffered such horrific calamity. You are in our hearts, you are in our minds and you are in the tears in our eyes. I commend the motion of condolence.

Mr LINDSAY (Herbert) (2.48 pm)—I would like to report to the House in relation to our visit yesterday to Ingham—the epicentre of the coastal floods. I also recognise the report that the member for Kennedy has given in relation to the flooding that has occurred right across the north and the west. The people up in the Gulf Country, in the Burdekin catchment, have been flooded for so long now. They are often a bit out of sight and out of mind. But they are not out of sight and out of mind in the hearts of the local members. They are not out of sight and out of mind any more in the hearts of governments. They know that they will receive the assistance that they need when they are in such desperate circumstances.

For the people of Ingham, yes, there was a lot of rain and a lot of water. They had two floods, one after the other. They were only marooned for about a week, but the people in the north and the west have been marooned for weeks. Of course there are very great difficulties with stock and there will be huge losses in relation to that. In Ingham, the damage has been particularly to homes, businesses, the agricultural economy and the built infrastructure. The raging water washes the roads out and the bitumen literally disappears, and we are going to have to attend to that. We will not know for about four weeks how the sugarcane crop has gone. It may in fact be okay and, God willing, it will be. We
will just have to wait and see what has happened to the sugar content, with the cane being submerged in so much water. Of course all of us saw the images on the television of people in their lounge rooms sitting on their lounge chairs, but they had their feet up because just below the top of the lounge chair there was water. They could not move. They could not go anywhere. They were there for a few days. It must have been terribly, terribly distressing.

I met yesterday with Pino Giandomenico, the Mayor of Hinchinbrook Shire. What a terrific fellow he is. The member for Kennedy will agree with me that he is a true community leader. Even though his own home was flooded, he worked tirelessly for his community and led the council operations to make sure that people were as well looked after as they could be. I met with Lindy Nelson-Carr, the state minister for communities and the member for Mundingburra. She was up there making sure that her department, the Department of Communities, was doing what it should. I went into the community recovery centre where there were literally hundreds of people seeking help from the state government, and they were being given that help. There was not any IT around at all. It was all being done on bits of paper. I guess it just shows us that in the middle of such adversity a bit of philosophy which says, ‘You can actually still do it on paper.’ All the claims were being made and all the cheques were being written right there on the spot. Thank you to the Commonwealth Bank for being able to cash those cheques and giving people their much needed assistance.

Of course, there are our own Centrelink people—and I pause for a moment for a commercial, because it is true. The member for Dawson will know that I made this point in our meeting with Centrelink in Townsville. Centrelink in North Queensland is the best performing Centrelink in Australia. All the surveys show this and what I saw in Ingham underscores exactly that. Our Centrelink people work above and beyond the call of duty. They do whatever needs to be done to look after their customers and to look after those in adversity. Thank you, thank you, thank you to the people of Centrelink in North Queensland for what they have done.

I want to pay tribute to the Australian Defence Force. They are always there for our country whenever we need them; we all know that. They do what needs to be done. They are out there delivering ration packs. I suppose there should be another commercial here, and that is for the 3rd Brigade of the Australian Defence Force, which the Minister for Defence will know is the best brigade in the country. They were there in their Black Hawk helicopters, flying in and out and making sure that things went to plan. The brigade members on the ground were making sure that people had food. Thank you to the Australian Defence Force, acting in cooperation with the Royal Australian Air Force in Townsville.

An interesting thankyou is to the Australian Broadcasting Corporation. For years and years the local commercial radio station was the station that broadcast all the emergency information. Ever since Cyclone Althea it was known as being there for the local people. But it is not anymore. The commercials have given up that role for some reason. But the ABC stepped in on Sunday, at the height of the floods. The ABC staff were in their local Townsville studio continuously broadcasting local information to people who needed it. I think there is a message for this parliament, which is: we must support our ABC. They really came to the fore and fulfilled their role as the national broadcaster, as they have done in the case of the Victorian fires, making sure that people had information.
Thank you to the Hinchinbrook Shire Council for the work that they did in helping.

The people of Ingham, having been through such a terrible flood, are in high spirits. They are Australians. Yesterday in the main street no-one was complaining. People were getting on with their business. They knew and understood that life goes on.

I will finish by observing a point that the member for Kennedy made in relation to the mighty Burdekin River. The Burdekin dam in North Queensland contains an area of water 16 times the size of Sydney Harbour. Today that amount of water will go over the spillway. It is a huge amount of water, which indicates just how much rain we have had in North Queensland, and I think we are in for a lot more. I certainly support the motion.

Mr Rudd (Griffith—Prime Minister) (2.56 pm)—by leave—it is a remarkable thing about our land that in our parliament today we have had moving accounts of both fire and flood, as our nation battles with all the elements. I thank those members who have spoken today: the member for Gippsland, the member for Indi, the member for Kennedy and other members who have just now contributed. I note the message of many of those members, which is for us all to be there for the recovery and reconstruction of these communities for the long term, beyond the time when the events which grasp the nation’s attention now are no longer in the headlines or on the front page. That is our sober responsibility to each of these communities.

The Victorian bushfire crisis has moved into a new stage. We are now dealing with two immediate challenges. First, we must continue to fight fires in the face of a situation that has deteriorated in the past 24 hours. Second, we must continue the difficult work of recovery for those who have suffered the impact of fires already. In addition to these two immediate challenges, we must move ahead with preparations for the task of long-term reconstruction. In executing these tasks there will inevitably be gaps in what governments do, and inevitably frustrations will emerge. Our task in the days, weeks and months ahead will be to fill those gaps as quickly and effectively as possible. I would thank members for their contribution to that task in the reports they provide to government on the way through.

First, an update on the firefighting in Victoria. The fire threat in north-eastern Victoria has, I am advised, been increased overnight by strong southerly winds. This morning the Country Fire Authority issued urgent alerts for the communities of Acheron, Cathedral Lane, Rubicon, Thornton-Taggerty Road, and Bulls Lane, with an increase in fire activity in Murrindindi-Yea. The Yea-Murrindindi fires burning to the west side of the Black Range have picked up due to southerly winds, and early this morning they were estimated to cover an area of approximately 100,000 hectares. Our most recent report on the Bunyip Ridge fire indicates that, despite some improvement in the outlook for communities, the communities in that area should remain on alert.

The fire is burning in an area of approximately 25,000 hectares in the Bunyip State Park and state forest and has the potential to directly impact communities in that region. Fire activity also remains high in the Ma-roondah-Yarra complex, in particular south-east of Toolangi and east and north of Healesville. Fires are continuing to burn in many other areas of the state, including the Churchill-Jeeralang fire, the Kinglake complex and Walhalla. There are of course challenges elsewhere across the state. As one member said to me last night when I telephoned him to speak of fire challenges in his area, it is important to remind the nation that we continue to be in a fire crisis and we are
continuing to recover from that crisis which has been meted out to communities already.

The latest information confirms also the catastrophic scale of these fires. I am advised that there are 181 confirmed deaths from the fires and I am further advised that this figure will continue to rise. There are 570 injuries. There are 78 admissions to hospitals—up to 20 patients have been admitted into the major burns system at the Alfred Hospital. At latest count, 1,033 houses had been reported lost, 450,000 hectares had been burnt and at least 5,000 people remain homeless. Of course they have nothing at all: no money, no credit cards, no car and no clothes.

On recovery efforts, the Commonwealth now has four agencies working with the Victorian recovery centre on the immediate challenges: the Australian Federal Police, the Australian Defence Force, Centrelink and of course FaHCSIA. Over 460 Defence Force personnel have now been deployed to assist with a range of tasks, some of which I outlined to the House yesterday. On behalf of all members and all Australians, I would like to thank Defence Force personnel and reserve personnel for their exceptional efforts. ADF teams are providing direct assistance to those who have lost everything in the fires. They are also on the front line of fire fighting and they are providing relief for firefighters and emergency service personnel.

In relation to the immediate search and recovery effort I inform the House that the ADF has deployed a search task group of approximately 160 reserve soldiers headquartered at Kilmore. This group comprises four search teams to assist emergency management agencies search through rough terrain on foot near Traralgon, St Andrews, Flowerdale and Yarra Glen. I am advised that the search team deployed to Flowerdale has completed its work. It is now preparing to deploy to work in the Kinglake area.

Centrelink is providing direct assistance on the ground in fire-affected areas through the Australian government disaster relief payments. Today in the Australian newspaper there was an open letter to me from Mr Gary Hughes, a victim of the fires who lost his house. Mr Hughes wrote of his dismay at being asked to produce identification to receive his relief payment after he had registered with the Red Cross at the relief centre at Diamond Creek when all of his personal documents had been destroyed in the fire. Indeed Mr Hughes wrote a very moving account in the Australian on Monday of how he and his family had narrowly escaped death. What happened to Mr Hughes should not have happened. The government accept the criticism and we are doing everything we can to remove obstacles for people in claiming emergency relief. That is why Minister Macklin is currently in Victoria—to make sure these problems are fixed as quickly as possible and to ensure that Centrelink operates as flexibly as possible given the challenges we will face.

On the Victorian Bushfire Reconstruction and Recovery Authority, I would also update the House on the work that the Australian government is undertaking alongside the Victorian government through the Victorian Bushfire Reconstruction and Recovery Authority. As I announced yesterday, the authority will be coordinating bushfire recovery activity across the state of Victoria. The Australian federal government and the Victorian government will share equally the costs of rebuilding communities affected by the fires. I repeat what I said yesterday to the House: the Australian government’s contribution to this reconstruction effort will be uncapped. The authority will coordinate the activities of all local, state and Commonwealth agencies and community organisations. Members will be aware that the authority will be headed by the outgoing Chief Commissioner of Victoria
Police, Christine Nixon. The authority will determine what action is required, such as temporary government offices so residents can continue to access vital assistance from Centrelink and the Department of Human Services to temporary doctors clinics and pharmacies to ensure prescriptions are written and able to be filled and other essential services.

Our priority must be to make these towns become functioning centres of community life again as soon as is possible. They will need to make sure the power and water is reconnected and running properly so residents can return as quickly as is possible. Where homes have been destroyed, the authority can smooth the path for individuals and insurance companies helping to quickly process claims. Then we will move to the task of permanent rebuilding. Cutting through bureaucracy and getting the job done, the authority will direct and coordinate the teams of builders, tradespeople, engineers and other professionals who will rebuild the schools, libraries, community halls and recreational facilities—all the parts required to get these towns back on their feet for the long term; and for that to be done as soon as possible. We must also in the task of reconstruction learn from what has happened—with plans for a safer future.

I turn now to insurance. The Assistant Treasurer, Chris Bowen, this morning spoke to senior insurance industry representatives from the Insurance Council of Australia in order to get a clear assessment of how insurance companies can expedite claims and provide assistance to the victims of the fires as soon as is possible. I understand from the Assistant Treasurer that he made it clear to the Insurance Council that the government expects insurers to act promptly and compassionately. People who have suffered a loss of property due to the bushfires should contact their insurer directly. Some insurers have put in place special arrangements to assist claims. Insurers are allowing lodging of home and motor insurance claims over the phone and providing up to $5,000 of emergency funds where required for food and clothing. I am advised that all insurers are putting claim staff and assessors on the ground as soon as is possible in order to access affected areas and to assist.

The Insurance Council of Australia and its members have also, I am advised, activated an insurance task force to coordinate assistance to those who have concerns or questions about their insurance claims. The Master Builders Association has also joined the task force and will be assisting with the supply of trades and supplies for the rebuilding effort.

I would say this to all members and through them to their constituents: if any person has problems with insurance companies, people who have been affected by this extraordinary disaster, I would like them to contact their local member of parliament and I would like their local member of parliament to contact directly the Assistant Treasurer so that we can deal with these problems.

The country at large has been extraordinary in its response to these natural disasters. The people of Australia have opened their hearts, they have opened their homes, they have opened their wallets and they have opened their lives to those who have been directly affected by these disasters. There is, of course, in some places in Australia understandable frustration about people wanting to give and not knowing how to give or where to give. The response we have been provided by the relevant authorities is that the overwhelming preference is for people if they wish to give to give in cash rather than in kind—cash to the registered national appeals, cash also to the relevant charities who
are in the front line assisting with the immediate emergency task.

Dealing with the immediate challenges that I have referred to and that I referred to yesterday is of critical importance. Dealing with the longer term challenges presented by these bushfires, these natural disasters, must also be dealt with over time: challenges including long-term building codes, challenges including long-term planning laws, challenges including long-term vegetation management, challenges including the handling of power transmission systems—I noted carefully the contribution to the debate yesterday by the member for Mallee in this respect and I spoke to him again about it last night. There are long-term challenges of bushfire research, long-term challenges of the adequacy of our arson laws and many other challenges as well.

Our responsibility as members of this parliament is to learn from this extraordinary disaster and to act on what we learn. In this respect, both on these immediate challenges and on these longer term challenges, none of us in this place is the repository of all wisdom. Therefore it will be important to harness the ideas and the initiative of the entire community and all members of this place, be they government or opposition. Certainly in my discussion this morning with the Leader of the Opposition I extended to him a heartfelt invitation that if there are any ideas or proposals in dealing with these natural disasters of an immediate term nature or of a longer term nature then of course they should be made directly to the government. I have spoken to the Leader of the Opposition about mechanisms through which that can be done.

Finally, I pay personal tribute to the member for McEwen. She is quite an extraordinary woman and reinforced this again in a conversation I had with her this morning. She was feeling bad about the fact that she was not here with us all. My advice, and I am sure the Leader of the Opposition has concurred in the same advice to the member for McEwen, was that she is better placed where she is, with her people and her community. I say that because we all know in this place that it is her communities and her area which have suffered the worst in all of this. I also said to her, and I have reflected this also in conversation with the Leader of the Opposition earlier today, that when she does return to be among us, all members, government and opposition, look forward to her speaking to us and at length about the experiences that her community has just been through. I thank the House.

Honourable members—Hear, hear!

Mr TURNBULL (Wentworth—Leader of the Opposition) (3.11 pm)—by leave—I thank the Prime Minister for his remarks and in particular thank the members for Gippsland and Indi for their very moving and compassionate speeches full of compassion and indeed full of common sense reflecting their very great insight into their communities, particularly in these very terrible times of fire. I also thank the members for Kennedy, Dawson and Herbert for their reports on the floods in North Queensland.

The Prime Minister and I were able to meet this morning, and I thank the Prime Minister for that opportunity. In these very troubled times Australians look to their leaders to work together in a common purpose. It is vital that wherever we can we aim to collaborate and work in a bipartisan way, because we do have a common purpose of putting these communities back on their feet. I say again, as I have said all week, we will support whatever it takes to put these communities back on their feet after this terrible tragedy.

In that spirit there are a number of practical measures that I have raised with the
Prime Minister that I will raise now in the House because they are important issues that the House should consider, that the public should consider. We would propose that a special commissioner for disaster insurance should be appointed for a fixed term to oversee the response of insurers to the natural disasters both in Victoria and in North Queensland, to act as an advocate for those making claims and to act speedily on complaints from insured persons. The commissioner would report to the parliament and to the government quarterly. As we know, very often victims of bushfires have had to wait for a very long time to get their claims paid. We should do everything we can to ensure that the insurance industry responds quickly.

I commend the Assistant Treasurer for his actions already, but nonetheless we believe a commissioner of this kind would add additional force and authority, and indeed impartiality, in this effort.

Equally, it is important to ensure that government contributions are directed to those in need and do not substitute for payments from insurers. In other words, government funds should not be directed in a manner that actually relieves the obligation of insurance companies; they should be directed to those in need.

The Prime Minister has established with the Premier of Victoria a joint Commonwealth and Victorian bushfire reconstruction authority, and we certainly commend him on doing that. That is, we understand, to supervise and coordinate reconstruction efforts. That should be a genuinely bipartisan effort, and it should include parliamentary representation. We would propose that the member for McEwen, the Hon. Fran Bailey—whose community, as the Prime Minister has just said, has been most gravely affected—should be appointed to that authority.

We also propose that a joint select committee should be established to review these tragic events in the Victorian bushfires, especially taking into account the findings of other recent inquiries into bushfires, including the report of the Nairn committee inquiry into the 2003 Canberra bushfires. We appreciate that the Victorian government has established a royal commission, and we welcome that. There will be great public interest in the identity of the commissioner or commissioners and, indeed, in the terms of reference, but we welcome the principle. But we all understand in this place that royal commissions can take several, often many, years before they reach a conclusion. There has been a great deal of work done on bushfires in the past. That should be reviewed again in the light of these events, and it should be reviewed by this parliament. This parliament should take action here. The royal commission should not be a mechanism that puts parliamentary action on hold for years and suspends public debate and parliamentary inquiry.

Those are a number of practical matters that I would encourage the Prime Minister and the government to take on board now. The Prime Minister and I discussed a number of other matters, which we will no doubt continue discussing and which will no doubt be the subject of debate or discussion here in this House on another occasion. I say in conclusion that the nation that we are privileged to represent in this parliament is totally united in its commitment to restore these communities and put them back on their feet, and we should resolve to work together in a bipartisan way, as Australians, in ensuring that justice is done to the victims of this dreadful tragedy.

Mr FITZGIBBON (Hunter—Minister for Defence) (3.17 pm)—The media coverage of the Victorian bushfires has been so extensive and, indeed, so graphic that I am confident
every Australian has a proper and full appreciation of the level of carnage and tragedy those affected have faced over the course of the last few days. Yesterday I saw that carnage firsthand, yet what has happened in the towns just north of Melbourne remains, to me, incomprehensible.

But what is just as amazing is the strength and the resilience of those who have lost so much and the selfless sacrifices of those who are working so hard to help others. Of course, many of those lending assistance are themselves victims of those tragic bushfires. Yesterday I was able to talk with and thank many of them. Some were members of the SES, the CFA, the Red Cross, the Salvation Army or the police force. Others were simply neighbours, families, friends or, as in one case I saw, directors of the local football club. Of course, what they are doing both individually and collectively is typical of Australians, and on that basis none of us should be surprised by their efforts, but one cannot help but be in awe of their strength, their courage and their selflessness, and I know the broader Australian community is with them and behind them.

The other group of dedicated Australians I was able to speak with yesterday were the men and women of the Australian Defence Force. In the immediate aftermath of last Saturday’s unbelievable bushfire events, the Prime Minister made it clear that the Australian Defence Force stands ready to do all it can for as long as is necessary to help those who have been affected by this tragedy. Consequently, the 460 defence personnel who make up the joint task force are doing excellent work in the most difficult of circumstances. As the Prime Minister noted, they are building containment lines and clearing blocked roads using heavy earth-moving equipment and chainsaws. They are pitching tents and providing beds and sleeping bags for the many homeless, and they are providing health care to both the injured and the unwell and counselling services to those who have been excessively traumatised. They are assisting the police in the search for survivors or, indeed, those who did not make it—surely the most challenging and confronting work of all. They are also providing water purification plants and other emergency equipment.

Our Air Force has been using surveillance aircraft to assist in the search and rescue effort and to assist in the assessment of damage to infrastructure. The RAAF’s C130 aircraft are ferrying experts into the region, including forensic experts from Western Australia, and 4 Combat Support Services Battalion is supporting the transport of military equipment and providing logistic support for all of our deployed elements. Four armoured personnel carriers fitted with communications and emergency evacuation capabilities are also assisting in the effort. In addition, Defence has deployed a range of advisers and coordinators to assist in the huge challenges faced by the various civil authorities.

All this activity is taking place under the command of Brigadier Michael Arnold. Brigadier Arnold is the commander of 4 Brigade, one of Army’s reserve formations. Their work stands as a reminder to all Australians that the role of the reserve forces in the Australian Defence Force is a really worthwhile, meaningful and critical one. Mainly drawn from 5/6 Battalion of the Royal Victorian Regiment, they are accountants, tradesmen, doctors, technicians and teachers who give freely of their time to be prepared by training, to assist their fellow Australians and to take care of Australia’s national interests when they are called upon to do so.

Today, on behalf of, I am sure, all members of the House, I want to thank Brigadier Arnold and all those in both the regular and
reserve forces serving under him and indeed those serving above him. They are doing wonderful work in the most challenging of circumstances. I know from my visit yesterday, speaking with local people, that the local residents place a high value on the work they are doing and, of course, their very presence in the region.

I also want to thank all those employers who have willingly released their employees—not just those who employ reservists but also those who employ members of the SES, the Country Fire Authority and like organisations. As a former small business operator, I know what it is like to turn up for the beginning of the week with a full order book but to be down even one employee. It can be tough on those businesses, and I fully appreciate what they are doing. Yesterday I spoke to a number of people who have been released and on not one occasion did I detect any difficulty those employees were having with their employers—and I commend those employers.

Yesterday I saw the Australian Defence Force at its best, from the CDF, who is constantly on the phone to me giving me updates and forward planning operations, to those in our new Bungendore facility, running joint operations, and people like Lieutenant Colonel Cam Smith, who is commanding the engineers in the field, right through to the two young female medics I encountered just near Flowerdale—whom I suspect are only in their twenties—embedded with the 160 or so reservists who are undertaking that terrible search and rescue effort looking for life but more often confronting death. Again, I thank them for their service and their efforts.

Like those who have spoken before me, I again express my deepest personal sympathy to all those who have been affected by the bushfires. As Minister for Defence, I reaffirm the Prime Minister’s commitment to providing the joint task force with all the resources it needs for as long as it takes.

I am also very pleased that the ADF has also been able to lend significant assistance to the people of Queensland—those who have been so badly affected by those significant flooding events. As the member for Herbert has noted—although, unlike him, I cannot afford to be quite so parochial—RAAF’s Caribou aircraft and Army Black Hawk helicopters have delivered some 4,500 Army ration packs to those isolated and therefore unable to secure sustenance. Two Black Hawk helicopters from Army’s 5th Aviation Regiment transported 4,100 litres of fuel to assist the people of the Ingham region. Army personnel also used Unimog vehicles to evacuate people who were at risk as a result of flash-flooding around Cairns.

Defence stands ready to do all it is asked of in Queensland and, indeed, anywhere else around the country where people are facing adversity. Importantly, we take our tasking requests from the expert authorities on the ground—those who know where and when Defence can help most. Appropriately, their tasking priorities will always be related to efforts to sustain life. As with the people of Victoria, the government reaffirms its commitment to do all that is asked of it in terms of the ADF’s capabilities for the people of North Queensland, the people of Victoria and, as I said, any other Australian who finds themselves in a time of need anywhere in the country.

Honourable members—Hear, hear!

The SPEAKER—As a mark of the House’s continuing respect and support, I invite honourable members to rise in their places.

Honourable members having stood in their places—

The SPEAKER—I thank the House. In accordance with the resolution agreed to ear-
lier, the debate is adjourned and the resumption of the debate is made an order of the day for a later hour this day, and the matter stands referred to the Main Committee.

AUDITOR-GENERAL'S REPORTS

Report No. 21 of 2008-09

The SPEAKER (3.27 pm)—I present the Auditor-General’s Audit report No. 21 of 2008-09 entitled The approval of small and medium sized business system projects: Department of Education, Employment and Workplace Relations; Department of Health and Ageing; Department of Veterans’ Affairs.

Ordered that the report be made a parliamentary paper.

TRADE PRACTICES AMENDMENT (CARTEL CONDUCT AND OTHER MEASURES) BILL 2008

Second Reading

Debate resumed.

Mr BRADBURY (Lindsay) (3.28 pm)—It is a difficult task to resume discussion about matters of state—however important the matters in relation to the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 may be—after the contributions that we have just witnessed in this place. I want to thank the members who have just recently made those contributions and acknowledge the spirit in which they have brought the interests, the views and the perspectives of their electorates before the House.

Before my contribution on the bill before the House was interrupted a little earlier on, I was quoting an extract from the Dawson review, which, if I can paraphrase that extract, essentially pointed to the consensus that had emerged from the various submissions that had been made to the Dawson review—a consensus on the point that cartel related activity was sufficiently reprehensible to be punishable by the imposition of a gaol sen-

cence. Indeed, it is that view and that consensus that emerged from the Dawson review and formed the basis of a recommendation from that review, that the government is now implementing what was an election commitment, made prior to the last election, in relation to cartel related activity, which now involves a bill proposing criminal sanctions to be imposed in respect of those sorts of activities.

As I indicated earlier, it is not exceptional for us, in various areas of the law, to impose criminal sanctions where there is behaviour that is sufficiently reprehensible. It would seem that something we would do as a matter of course is ensure that the statutes that are on the books in this place represent and reflect widely held community views in relation to these matters. It is worth noting that the ACCC has been in support of these proposals and certainly made a submission at the time to the Dawson inquiry. I would like to quote a section from the ACCC’s submission, which said:

Hard-core cartels can be highly profitable for those involved and are difficult to detect. This makes the incentives high for businesses to engage in such fraudulent and clandestine conduct. It also makes it imperative that significant deterrents exist to counteract these incentives.

It is worth noting and understanding that, on the specific issue of deterrence and the deterrence value of those measures being proposed in this bill, the existing provisions in the law as it stands, which relate only to civil penalties, have given rise to a situation where, in the case of many corporations and many individuals guiding those corporations, decisions have been made to engage in activities that might otherwise be described as being uncompetitive, and they have done so on the basis that they have made a calculated risk and a calculated gamble that they may in fact get away with such activity. In the event that they are unable to get away with such
activity, that calculated risk has factored in the cost of getting caught out. It is an unsatisfactory situation where a corporation and those guiding the direction of the corporation make a decision based upon this philosophy—that, even if they get caught out, that is a business judgment, a business risk, that they are prepared to factor into their operations.

When it comes to the question of deterrence, if the only stick with which the state has to defend the interests of consumers and small businesses is the civil penalties that currently exist within the act as it stands, clearly the deterrence value is not going to be as great as if the stick involved the criminal sanctions that are now proposed in the bill before us. It is regrettable that there are individuals driving corporations that would make those decisions, but I think that it is self-evident that those decisions have been made in the past. The very difficult nature of securing a prosecution in relation to these matters because of the highly secretive and clandestine nature of the discussions, actions, collaboration or collusion that might lead to cartel related activity has meant that over time there have been many organisations, businesses and individuals that have been prepared to take that risk. I suspect that their preparedness to do that will be greatly diminished if criminal sanctions are implemented, and it is in light of those criminal sanctions that I believe we will get much greater compliance with the law and a reduction in cartel related activities.

In highlighting and identifying the challenges and difficulties associated with catching individuals and organisations involved in these activities, we also need to ensure that we provide the regulators with the necessary powers to secure the evidence that is needed in order to commence effective prosecutions in relation to cartel related matters. It is in that vein that I support the telephone interception provisions of this bill. Of course, provisions of this nature are always provisions that the parliament needs to give much and close consideration to before introducing. But, given the particular nature of these offences, their very secretive nature and the way in which these crimes—if I can use that word—are carried out, if we are to have any chance of bringing the participants in these sorts of activities to justice, it is imperative that we have powers such as the telephone intercept powers that are proposed in this bill.

To complement those powers, having an effective means of showing and demonstrating leniency to whistleblowers—who may be the agents who first bring forward concerns that lead to the use of telephone intercept powers that ultimately uncover cartel related activity—needs to be a necessary and complementary component of any approach to tackling cartels. That is why this bill strikes a very reasonable balance between, on the one hand, increasing the sanctions, introducing criminal sanctions and providing a greater deterrence and, on the other hand, providing more and more effective powers for enforcement agencies and regulators to try and uncover the sort of conduct that is the target of the legislation. Combined with the whistleblower protection, which will hopefully provide further leads that will ultimately lead to authorities tracking down this activity, this will root out cartel related activity where it is present, and that is in the best interests of consumers, the economy generally and also small businesses.

Before I conclude, I wish to reflect upon a couple of comments that I have noted from interested parties that are not able to make a contribution to this debate in the parliament. I note the comments of Professor Paul Kerin, professorial fellow at the Melbourne Business School, who was quoted in the Australian on 26 January as saying:
Jail sentences would be even more valuable here than in the US. Our small markets and highly concentrated industries make price-fixing much easier. Jail sentences would make potential perpetrators think twice.

Apart from the obvious deterrence that comes with the criminal sanctions, I think we can see that there are particular reasons why, in the Australian market, these types of laws will have an even greater effect than they have in other areas where those laws are already in place. And it is not exceptional that we should be introducing these laws. They have been introduced in many countries around the world, and many of our key trading partners abide by these rules. I think it is important that we not only work collaboratively at the international level—as we have done in the past through the OECD—but that we implement laws domestically that reflect our participation in those forums internationally. I also note that Professor Bob Baxt, a partner at Freehills and former head of the Trade Practices Commission, made the comment:

What Chris Bowen has done is he’s taken the heat out of this issue immediately, rather than fluffing around like Peter Costello did.

I do not want to reflect on the fluffing around of the member for Higgins. What I will say, however, is that the Assistant Treasurer and Minister for Competition Policy and Consumer Affairs is not someone that fluffs around. As a consequence of his determination to not fluff around we have, in a very short space of time, seen legislation—bills brought before this House—that tackle something that even by their own admission members on all sides of this House have said is legislation that needs to be introduced. I am very pleased to see that it has now been introduced. I am even more pleased to see that it appears to have bipartisan support. This is legislation that will deliver real benefits to consumers and ensure that we have a market that is competitive, with integrity.

(Time expired)

Dr STONE (Murray) (3.39 pm)—The Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 is supported by the coalition because it aims to curb the behaviour of competitors in a market where they manipulate prices, rig bids, restrict output or attempt to divide and share markets. Put simply, a cartel is an agreement between competitors not to compete. Such behaviour ultimately disadvantages the customers, reducing their choices and often also leading to higher prices. It squeezes their suppliers, particularly in their viability and capacity to innovate, and it can kill off other competitors, of course, who do not want to be—or cannot be—part of that dominating cartel.

The bill outlines that cartel type offences should no longer be described with the words ‘with the intention of dishonestly obtaining a benefit’. That concept of dishonesty has been replaced by the general principles of criminal responsibility applicable under the Commonwealth Criminal Code, which deal with intention, knowledge and belief. Thus this bill criminalises conduct that was already prohibited under existing prohibitions. Stamping out cartel behaviour is a very serious concern for any economy and any population of consumers, but it is particularly serious for Australian communities. We have some of the globe’s greatest concentrations of ownership in areas such as retail—and within retail, in groceries, alcohol and hardware sales.

The duopoly of Coles and Woolworths, for example, has cornered over 70 per cent of the Australian grocery market through successive small and larger acquisitions over time. As a consequence, suppliers to these big two have very little leverage. Each year, even more suppliers of fresh and manufactured grocery lines become price takers as
the supermarkets continue to chase market share and supply chain control through their relentless pursuit of home brands. This has serious consequences for the viability of primary production and food manufacturing in Australia, as well as for all of the support industries which, together, take food from paddock to plate. I am talking about the irrigation infrastructure industries, the transport industries, all of those who are involved with packaging and logistics and, ultimately, all those who are marketing products.

There are also, of course, environmental consequences when you squeeze your suppliers so hard that they have to cut corners or simply drop back in the queue of supplying altogether. Every farmer knows that it is very difficult to be green when you are in the red. When farmers are pushed too far in price for product and are pushed into debt, all the environmental services farmers contribute to the community suffer, including the maintenance of fresh water, fresh air, biodiversity protection and protection of nutrients in the soil. None of those services can be delivered by a farm sector which is, every year, being squeezed harder and harder on price for its product. Vegetable and fruit producers in the Goulburn and Murray valleys in my electorate of Murray have not seen an increase in returns for fine, clean, green produce for decades, when you consider the costs that they have to bear and the virtually flat price they receive for produce.

There are also ever-increasing demands made by the duopoly for suppliers to increase packaging quality and quantity and in other ways to add value to the product—a stamp on the apple here, an extra section in the box there, the keeping of the product longer in the cool stores or the delivering of it within a five- or 10-minute slot. All of this additional value-adding to the supplier’s task comes, of course, at a cost to the supplier. They do not get the price back from the retailer to cover these additional costs. Complaints from suppliers are ineffectual when the message sent back down the line from the retailers is that there are others in the queue ready to sell to them anytime.

I have to say, too, that the transport sector is often given an impossible deadline or timeslot in bringing product to market—often they are owner-operator businesses and their margins are extremely thin. When you have an extremely concentrated retail sector—such as there is in the supermarket sector—and you may be asked to take products from, say, Shepparton to Sydney, with only 15 minutes leeway for on-time delivery. If you are held up on the way on the Hume—your logbooks are checked yet again and you miss that slot—that could be the end of your capacity to pay your hire-purchase and to survive in that owner-operated business.

The coalition tried to deal with this sort of market power leveraged against those in the upstream section of the value chain. We brought in regulations which tried to apportion blame for an accident, for example, on the parts of the value chain which were responsible for unrealistic deadlines or which were forcing dangerous practice in order for the business to comply with the demands of, say, very tight time frames of delivery. I am regularly told by my own transport industry—and we have one of the biggest regional transport sectors in Australia in the Murray and Goulburn valleys—that, even with that regulation, there is a danger to drivers, as they try their best to meet unrealistic deadlines, knowing that, if they do not, there will be another owner-operator transport business contracted for the next job.

In particular, we see the powers of the duopoly and the need to have very close scrutiny from the ACCC when we look at the dairy industry and its products in Australian supermarkets. The prices paid by the grocery
retailers for dairy products do not reflect domestic demand or competition because, quite simply, there is hardly any domestic competition when you have only got two major retailers, who have prices set centrally across the country. The duopoly’s competition comes from the opportunity Australian dairy manufacturers have to alternatively supply the export markets—to survive in these highly corrupted, subsidised export markets. Right now, we are staring down the barrel of a collapse in prices and demand in those export markets for dairy products, so you can imagine the opportunities now available to our big retail duopoly to do whatever they like with the Australian dairy suppliers in terms of prices.

In an extraordinary article in *Queensland Country Life* on 6 February—just a week or so ago—Mark Phelps wrote that Woolworths would reduce milk prices by 11c a litre on all drinking milk products on 23 February—in a week or so. This will be ‘in line with the end of the dairy adjustment levy’. Surely, the owners, the shareholders of the duopoly are aware that the actual producers of market milk in Australia had a 50 per cent cut in the prices offered to them by their manufacturers several weeks ago. These prices are below the cost of production for most manufactured milk suppliers. This industry is high cost but highly efficient, and we have managed in Australia to retain self-sufficiency in supplying good, clean, healthy dairy products across the nation for the last 150 years or so. Unfortunately, without a price rise in our domestic market, without the retailers being prepared to pay a decent price to the Australian dairy manufacturers, we are looking at the loss of our market milk producers in Australia—in particular, the irrigated market milk producers in my electorate of Murray.

We have a retailer—in this case it is Woolworths—boasting about dropping its milk prices in its supermarkets by 11c a litre on 23 February. We wonder what consumers will say when the dairy suppliers of manufactured milk go to the wall and all of the product in the future is from New Zealand or maybe from China. It is a prospect that I find daunting and a prospect that must make states like Victoria shudder, given that exports of dairy powder, for example, have been Victoria’s biggest agricultural export out of Geelong for many, many years.

So I am very concerned about the concentration of power that exists in Australia in the retail sector—particularly in relation to groceries and food production—about the consequences of there not being enough competition within Australia in food and beverages markets, about the consequences for the environment and about the consequences for rural communities who depend on the work generated by paddock-to-plate production. I am concerned that there does not seem to be any conscience when it comes to the big duopoly in relation to the long-term security and wellbeing of their Australian suppliers. There seems to be no sense that the consumer might want to continue to have a choice of Australian product as well as imported no-name brands from heaven knows where. We have seen food contamination scares internationally which should make every parent shudder. Australia’s food production is so highly regulated, so clean, that we can guarantee Australians a healthy eating future, but I am concerned that our duopoly in the grocery supermarket line has no such similar, or common, view.

We are also going to have to be very careful about concentrated power in areas like water sale and delivery. In Victoria, for example, our irrigated agriculturalists have no choice when it comes to who sells them their water and how that water is managed. The prices go up exponentially and the service does not necessarily match at all the price rises that are occurring. And, of course, in
irrigated agriculture in northern Victoria, you pay for water that you cannot receive due to the drought. I think it is very important for the federal government and the states to look at cases where state owned authorities—in this case, irrigation authorities—hold monopolies at the expense of true innovation in delivery and where there is not world best practice, when, in the case of Victoria, they just have to look over the border into New South Wales to see how much better irrigation authorities can do when they are stakeholder owned and driven.

In making these remarks I want to say that we do appreciate the work of the ACCC and we watch their performance and behaviour carefully. There has been concern in the past that they were not really serious about cartel-like behaviour. Obviously, we need them to be strong and we need to be quite confident at all times that they behave and work with true authority and in a non-partisan way.

I also commend this bill in that it adds provisions which will help in detecting cartel behaviour—for example, telephone interceptions. I certainly believe that we must be very careful about protecting the so-called whistleblowers, who often expose themselves to real peer group sanction and public opprobrium when they tell the truth about cartel type behaviour. Very often, these whistleblowers are not adequately protected, yet they are the real heroes when it comes to exposing practices which damage the community at large or to smaller sectors. I commend this bill to the House. It deals with important issues not only for the Australian economy but also, in particular, for Australian suppliers of raw and manufactured product into our markets. It is extremely important that we watch, carefully regulate when we can and, indeed, apply greater sanctions if it appears that concentration of ownership or cartel behaviour occurs to an even greater extent in the future.

Mr MELHAM (Banks) (3.54 pm)—I rise to say a few words on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. At the outset I want to quote from the second reading speech of the Minister for Competition Policy and Consumer Affairs because I think it quite neatly sums up what the bill is about:

Cartels are widely condemned as the most egregious forms of anticompetitive behaviour. At its heart, a cartel is an agreement between competitors not to compete. Cartel conduct harms consumers, businesses and the economy by increasing prices, reducing choice and distorting innovation processes.

This bill makes much needed changes to the Trade Practices Act, because it will bring Australia into line with its major trading partners and developed nations. The Dawson review into this matter recommended the introduction of criminal penalties in Australia. That is a big but very important step, as people who engage in this conduct should be subject to criminal penalties and not civil penalties alone because of the cost of that conduct to the general community.

Interestingly, the Dawson review also recognised that there is growing international experience showing that criminal sanctions are effective in deterring serious cartel conduct. The deterrence effect of a penalty is often quoted in court but, in relation to these particular matters, it is now recognised and stated in the Dawson review that criminal penalties can, in effect, deter this sort of conduct and stop it from happening. Of course, those engaged in it obviously do not like the prospect of going to jail. If it is a civil penalty they might be able to pay their way out. So weighing up a civil penalty, if caught, against the conduct and what it reaps might be an option for them. Labor did commit, in the lead-up to the 2007 federal election, that it would introduce this legislation, and exten-
The matters that I want to concentrate on go to penalties. The government gave extensive consideration to the appropriate jail term. Originally, the maximum term stated in the draft exposure bill in January was five years imprisonment. However, in this bill it has been increased to a 10-year jail term, which, as the minister said in his second reading speech, ‘better reflects the seriousness of the crime’. His speech also stated:

A maximum 10-year prison sentence already exists for directors who wilfully defraud or deceive a body corporate, or for directors who fraudulently appropriate the property of a body corporate. The proposed 10-year jail term will also put Australia on par with the United States as having the world’s longest jail terms for this serious crime.

In relation to civil penalties there is also a maximum $500,000 penalty for individuals and a penalty consistent with the maximum criminal fine for corporations. I think 10 years is appropriate for this sort of conduct. When I was appearing as a legal aid solicitor and legal aid barrister in New South Wales, I can tell you that break, enter and steal offences attracted much more serious maximum penalties than this—and for quite small amounts. So, if you actually go to the criminal statute books, I think you will see that 10 years is about the right balance in relation to this. That does not mean to say that you have to send people to jail for 10 years; that is the maximum penalty. I note that, if there is a penalty under this bill of 12 months or less, it can be substituted for a fine in relation to the matter.

I also want to talk about some of the things that were consulted on in terms of the powers that are allowed to be used to, in effect, detect cartels. I go to the Parliamentary Library’s briefing paper in relation to this, the Bills Digest, because, again, it gives a good summary. On page 10 it says:

The amendments to the TPA proposed by this Bill would make a cartel offence a relevant offence under the Surveillance Devices Act. Although the ACCC is not a law enforcement officer under the Surveillance Devices Act, the amendments in this Bill would allow the Australian Federal Police to obtain a surveillance device warrant to aid in the investigation of alleged cartel conduct by, for example, monitoring conversations between cartelists, and to communicate the information obtained under the warrant to the ACCC.

Further, it says:

The proposed amendments to the Telecommunications (Interception and Access) Act 1979 (TIAA) will enable the ACCC to request the Australian Federal Police to obtain a telecommunications intercept warrant to investigate criminal cartel offences. The rationale for the amendments was elucidated in the submission to Treasury of the Law Council of Australia as follows:

Cartels are by their nature secretive. There are particular evidentiary difficulties with cartel offences as cartel participants generally seek to avoid documenting their arrangements, and endeavour to conceal cartel communications. Telecommunication systems (including the Internet) are an increasingly common and prevalent method of communication. Interception warrants, particularly used in conjunction with an informant, could be a useful resource in ongoing cartel offence investigations, in those cases where cartel communications are predominately made over telecommunications systems including in relation to the implementation phase.

When it was first introduced, the Telecommunications (Interception and Access) Act applied to a very small range of offences—the most serious of offences on the statute book—and there were assurances that it would be limited in its use. But there is no doubt that as time has passed more and more offences have come under that particular statute. In this instance, it was a big call by...
the Law Council of Australia to concede that it is appropriate to use the act to stop cartel activity.

There is a recognition that in terms of intercepts per person—and I remember producing some figures when I was shadow minister for justice—Australia is probably the most intercepted country in the world, certainly more so than the United States of America. Interception is now a cheap way for law enforcement agencies to monitor activity and obtain evidence that can be used in court. It also means that you do not necessarily require an informant in the first instance or someone who can be discredited. Interception is another method that, once this bill is passed and it is communicated that interception is out there, will in my opinion act as a deterrent, because those who have engaged in this activity will not be able to do anything other than be apprehensive that their conversations can be recorded and used in direct evidence against them in proving this particular conduct.

When it comes to the criminal offence—and I will finish on this because I did not particularly want to speak for the full 20 minutes—in relation to fault elements, section 5.1(1) of the Criminal Code provides that:

A fault element for a particular physical element may be intention, knowledge, recklessness or negligence.

What we are doing here in moving to the Criminal Code is picking up the standard criminal definitions in relation to whether a matter constitutes criminal conduct. We are not talking about strict liability or anything like that. It goes to intention, knowledge, recklessness or negligence. In my considered opinion, this sort of conduct fits squarely within conduct that can be classed as criminal, and it should be dealt with as such. We as a parliament should not resile from the fact that at times we do bring ourselves to situations where we create new offences that carry prison terms because the conduct cannot be sanctioned or treated with kid gloves. For too long this sort of conduct has retained its identity as a civil offence when quite frankly it is a criminal offence. It is greed, it is manipulating the community and it should be dealt with as a crime. So I applaud the minister for bringing this material forward. This bill will go a long way to hopefully stopping this sort of conduct or putting these people on notice that if you do this then you are going to end up with a criminal conviction and everything that flows with it.

Mr SIDEBOTTOM (Braddon) (4.05 pm)—I too am pleased to be able to speak on what is a significant piece of legislation and an amendment to the current Trade Practices Act, the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. One of my great hobbies in life is musicals, particularly directing them. I have a particular interest in a current musical that you might not be aware of called The Scarlet Pimpernel, which has a history of very chequered reviews. Listening to the songs and reading the script of The Scarlet Pimpernel certainly reminds me of highwaymen and highway robbery. This legislation effectively deals with that very thing.

In the same vein as the former speaker and the member for Lyne earlier today, I think we ought to call this what it is—that is, robbery and, in many instances, daylight robbery. Yet the irony is that it is done in the dark. It is done secretively and covertly and is often done over a great period of time. It is very difficult to detect. We know it exists but it is very difficult to prove. It is robbery and it affects not just the consumer—that is, everybody—but also businesses in general and small businesses in particular. I found it interesting and perhaps surprising that, when some members on the other side said that
they were supporting this legislation, they said they feared that its implementation may be injurious to small businesses and legitimate business. I am not a lawyer by any means, but my cursory reading of the legislation tells me that it has taken this into account and has sought to get a compromise between tracking and prosecuting those who are guilty of outright major theft and protecting normal competitive practices. That is what it is designed to do.

What exactly is it that we are talking about when we say ‘cartel conduct’? It is not something that is just off in the ether and it is not something—contrary to claims from the opposite side—that we have only become interested in because of some high-profile cases in this country recently. These were high-profile cases that could not be charged with criminal offences but only with civil offences. So what is meant by it? I turn to the Australian Competition and Consumer Commission, which defines cartel conduct as essentially an anticompetitive arrangement between two or more businesses. The Organisation for Economic Cooperation and Development—the OECD, as we know it—defines hardcore cartel conduct more narrowly, and I think it is worth putting on the record:

... an anti-competitive agreement, anti-competitive concerted practice, or anti-competitive arrangement by competitors to fix prices, make rigged bids (collusive tenders), establish output restrictions or quotas, or share or divide markets by allocating customers, suppliers, territories, or lines of commerce.

That is a relatively comprehensive definition of what we mean by cartel conduct. That is at the basis of this legislation and the amendments contained within it.

Currently, part IV of the Trade Practices Act relates to restrictive trade practices. Although it does not specifically use the word ‘cartel’, it already contains provisions spread across a number of sections which regulate anticompetitive conduct between two or more businesses. It does this by dividing the conduct into one of two categories, and I would like to share these with you. Firstly, there is conduct which is of itself—referred to as ‘per se’—regarded as anticompetitive. This conduct is prohibited, regardless of whether it has the purpose, effect or likely effect of substantially lessening competition. The rationale behind a per se prohibition is that the conduct prohibited is so likely to be detrimental to economic welfare and so unlikely to be beneficial that it should be proscribed without further inquiry. In short, it is of its nature anticompetitive. Secondly, there is other conduct which is subject to a competition test.

I noticed with interest that some on the other side—in particular, the member for Pearce, for whom I have great admiration—finished her very well constructed speech of support for this legislation by defending the former government’s record on trying to tackle cartel operations. I found it extraordinary because she was defending the member for Higgins, the former Prime Minister, Mr John Howard, and those opposite for their history of procrastination on this issue over many years and their tardy record in doing something constructive and real about the Trade Practices Act and dealing with cartels. Those opposite can lean back and lazily say, ‘Oh, this has been too difficult.’ They criticise the current minister, the Minister for Competition Policy and Consumer Affairs, who is sitting at the table now listening intently to my speech rather than to those opposite. He has been criticised for rushing legislation into this House to deal with this most serious matter. In fact, the current minister—and I give him all credit in this; he has a tremendous capacity, ability and future in our Australian parliament, and thank heavens for that—has a precedent to work from be-
cause the legacy and history of people seeking to do something more constructive about this is quite long.

I know that the member for New England, who will follow me, will be able to give us a more detailed history of this. I take you back to the Dawson report of 2003, which was a highly comprehensive inquiry which effectively called for the criminalisation of cartel conduct. That was in 2003, so that is a fair time to hold your breath. In 2005 the response from the current member for Higgins was that the government in which he was Treasurer would amend the Trade Practices Act to introduce criminal penalties for serious cartel conduct. That was in 2005, which was two years after 2003—everything was happening with haste, as we can see. The bill, in fact, was never introduced in 2005. I wonder why; I wonder what was at the back of this.

Mr Bowen—Was it in 2006?

Mr Sidebottom—Well, let us move on. In a doorstop interview on 9 October 2007, the then Prime Minister, the Hon. John Howard, stated that the coalition would continue to examine the strength of the trade practices law and make further changes if they were needed. However, he stated that he would not make any commitment beyond that. We know what happened to that. In the meantime there have been serious cases of cartel misconduct recorded in this community. Some members opposite claim that our hastiness in beating towards creating legislation to criminalise cartel conduct was based on a personal vendetta against some of those who were taking part in and found to be guilty of these malpractices. This was between 2000 and 2004.

In 2007, another company was severely penalised for such conduct. We made a commitment in 2007 that we would advance the legislation. The minister has carried out that promise. Contrary to what others have said—particularly the member for Pearce, who claimed in an extraordinary finish to her speech that the minister was forced to rush the legislation—my understanding, and I am not a lawyer or an accountant, indeed far from it, is that we have had a period of consultation, we have circulated a Treasury discussion paper and we have had other discussions with major agencies throughout the government over 12 months. Because of those consultations, the minister made changes to the amendments which are before us today. This is hardly a rushed piece of legislation.

The Labor Party made a commitment based on the history of a poor legacy in relation to criminalising what is highway robbery in this country. The legislation before us deals with that in a balanced, measured way. Indeed, and let us not forget this, it follows the example of many other countries, in fact—again, I am not an accountant—15 OECD countries and others, including the United States, Great Britain, Canada, Norway, France, Germany, Israel, Taiwan and so forth. It is not as if we have invented the wheel, indeed we have not even reinvented it. What we have done is to hopefully make it work and run more smoothly than it has in the past.

I congratulate the minister. I congratulate this government on behalf of my community, which I must say has felt the detrimental effects of what looks like collusion, often, in terms of paying major prices for major commodities, which unfortunately are controlled by very few players in the market.

The penalties that have been introduced in relation to this legislation I believe are appropriate. I believe they will act as a deterrent, as they must, and that individuals cannot escape their responsibility, particularly in relation to decisions that are made which are
of an anticompetitive nature. I realise and I understand that there are sensitivities in terms of trying to balance the rights of individuals and their privacy and the need to intercept and get proof of cartel conduct of this anticompetitive nature. I believe the legislation has the balance right. I know the minister has given a commitment to monitor the legislation as it goes into practice, and I think that is absolutely important in this case.

I thank the minister. I thank the government for fulfilling its election promise. I think this is going to act as a strong deterrent. We join many around the globe in trying to tackle what is highway robbery in our economy. It is not fair. It is anticompetitive. It is anti small business. I thank the House.

Mr WINDSOR (New England) (4.19 pm)—Firstly, I would like to congratulate the member for Braddon on a very good speech. It was a little short on logic, content and argument, nonetheless one of his better contributions to the House. I would like to make a contribution on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008 before the House. I am pleased the minister is in the chamber because there are a number of things that he really does need to hear. I noticed he was not in the chamber when the member for Kennedy spoke.

Mr Bowen—I was listening, though.

Mr WINDSOR—He may have been able to hear the member for Kennedy outside the chamber. I refer him to the member for Kennedy’s contribution because he made some important points in terms of market power and anticompetitive behaviour, particularly in relation to the market dominance of the two major retailers—Woolworths and Coles. The member for Kennedy referred to the market dominance of major retailers in other parts of the world, particularly the UK. I think I am right in saying that the two major retailers in Australia have about 85 per cent of the market, which is a very dominant position. The member for Kennedy made the point that the next in line in terms of dominance are three companies in the United Kingdom that between them have something like 24 per cent of the market share. He then referred to other nations as well.

I think those issues are extremely important, and I listened intently in my office to the member for Murray’s contribution when she made reference to some of these issues. We are a small nation in terms of population but in a large geographical area. Our agricultural sector oversupplies, but it is an important component of world trade and very important in terms of our economy. That market dominance and the capacity for agriculture to exist in that environment into the future, where that dominating power over price can be exhibited, is very important. We all know about the anticompetitive practices that occur overseas; we like to refer to free trade but there is no free trade. In fact, only in the last week we have seen the European Community looking at instigating certain market protection mechanisms in relation to butter. So there is a range of anticompetitive activity happening both globally and, regrettably, domestically.

I commend the minister for this legislation, which looks at the various penalties for cartel behaviour—where that behaviour can be discovered. I do not think this bill will uncover very much in terms of market pressure and market power between various players, whether they be in the retail sector, whether they be in the agricultural sector or whether they be in the energy sector. But I do think it is an attempt to improve on what has happened in the past. I agree with the member for Braddon, who has now left the chamber, that there was a certain neglect of this issue by the previous government and I think that if one were prepared to analyse the
money trail in relation to some of the major companies then one could probably see why that trail was not followed in the past.

The member for Kennedy made some very good points about the mark-up on basic food products, and the figure of 300 per cent kept coming up as the difference between the farm gate price and the retail price. He used the example of the egg, where there is not a lot of value adding—the chook lays it, someone picks it up and puts it in a box and they transport it to the retail sector. He also used the example of the potato, which does not have high costs between the paddock and the plate. The mark-ups on these things—milk is another example—are all very similar; the difference between the farm gate price and the price to the consumer is something like 300 per cent. He indicated that, where various marketing mechanisms had been withdrawn, in certain areas the price to the farmer had actually gone down and the price to the consumer had gone up, under the guise of some sort of competition that was supposedly taking place. I think this legislation attempts to get at some of those issues.

The member for Braddon mentioned that the minister will be monitoring those issues, and I congratulate him for that and wish him well. But there are instances out there now that are very difficult to tie down. Maybe that is why the member for Higgins never went there—it was too hard to do. I will give just one instance. Some months back, oil was US$140 per barrel and we were paying $1.70, $1.80 or $1.90 per litre for diesel at the bowser. The price of oil has now dropped to somewhere in the vicinity of US$40 per barrel and we were paying $1.70, $1.80 or $1.90 per litre for diesel at the bowser. The price of oil has now dropped to somewhere in the vicinity of US$40 per barrel and the price of diesel is down to somewhere near $1.25 or $1.30. The price has not dropped nearly far enough in relation to the barrel price. Some suggest this is because of the influence of China or the demands of the Indian market; that the Singapore barrel price or some other barrel price is impacting it—it is very hard to explain but they would not suggest that there is any market collusion or market power driving it. I have written to the ACCC on behalf of constituents and asked: can you explain why there has been a collapse in the barrel price but the price of fuel, both petrol and diesel, has not gone down in proportion, when it went up quite quickly when the demand-driven barrel price reached $140?

The other question that is asked quite often—and I am sure the minister has had this question asked of him—is why diesel is dearer than petrol when it costs less to produce. In some country towns it is 20c per litre dearer than unleaded petrol. Here again we have a difficulty that government policy is going to have to deal with. A lot of people have been encouraged into more efficient diesel engines; in fact, there were certain incentives to do it in some cases. A lot of people were encouraged to go into LPG. A lot of people are being encouraged by the current government to move into more fuel-efficient vehicles and renewable energy sources—to look at solar energy and a whole range of other technologies. Then the market plays this odd game in which a fuel that is cheaper to produce costs more to buy—a fuel that governments in the past encouraged people to move into because it was more fuel-efficient and the economy was better. But, if you are running at 20c per litre dearer at the bowser, the economics start to kick in. Even though the economy of the engine might be better, the economy of the pocket is quite dramatically affected.

When you write to the ACCC and ask: how is all that happening—as a constituent of mine came in and asked: why is that happening—the answer you get is that it is happening because it can happen, because the fuel companies can charge what they like. They are in a competitive market and they can charge what they like. Competition in
that sense means they can bid the price up whereas most of us would think—and this was the case when most of the deregulation took place before neoliberalism died in recent weeks—competition was about bidding price down. What we see now is that where there are fewer and fewer players in the market—and I am talking about the fuel market now but this applies to other areas in the energy business—they are bidding the price up. We saw this in the Japanese coal market some years back where everybody used to go to compete on the price of coal.

So I would say to the minister on these issues that, even though there is no allegation of cartel behaviour there, there are allegations, and I think quite strong ones, of market collusion and the capacity for a relatively small number of players—whether it be in the retail sector or in the fuel sector—to actually drive the price to where they want it rather than where it delivers a reasonable profit to the seller. I think it is a fairly weak answer from the ACCC to say to the people of Australia that the price of diesel is 20c a litre more than the price of unleaded petrol because it can be. As I said earlier, in a relatively large land area and with a relatively small population, we need diesel to transport our goods and services around the nation. So I would suggest to the minister that, maybe in his monitoring process, he has a closer look at what is happening in the fuel business in terms of the way in which international conglomerates seem to dominate that particular market. We have had a slump in the global price. We are told that there is a slump in demand in China and India for almost everything but the price of diesel is still reflecting a very buoyant global economy. I think there are some questions that do need to be answered there.

Another area of energy that the minister may be interested in, and where I believe there are a number of mixed messages being sent, is in the area of renewable fuel. I have spoken about this before. We have these mixed messages coming out of government. We have one message which says, ‘We believe there is climate change occurring.’ I believe there is climate change occurring, and I have a private member’s bill before the House at the moment. We are told that we should encourage people to move to more renewable and environmentally-friendly energy sources. In fact under the stimulus package, which I have supported in the parliament, 2.7 million homes are going to be encouraged to put pink batts in the roof. Over time that will save energy and will have an impact in terms of emissions. There are a number of positive things there. The government was encouraging solar energy and then put a limit on the income of the participants in that scheme. This is part of the mixed messages that people are getting.

In terms of the liquid fuel market—and, Mr Deputy Speaker Scott, you would be well aware of these issues because I know there is a facility in your electorate that has recently been opened—we are trying to encourage people into renewable fuel sources, ethanol and biodiesel for instance. But there is subtle pressure at government level and at industry level, probably more at industry level than at government level but the two are linked in terms of pressure points, where the suggestion is that these industries should not promote themselves too far and should not invest too much because we may well in fact tax them at some future date. People would know that the dirty fuels, in terms of the environment, oil based fuels, are taxed in this country at an excise rate of 38c a litre. There is this subtle message out there, even from some within the farm sector, that says, ‘Why should we subsidise a renewable fuel? Why shouldn’t they pay the same taxes as a non-renewable fuel?’ I think there is an onus on the government to actually address that issue,
because to suggest, as some have, that the removal of a tax is in fact a subsidy sends a very ordinary message in terms of trying to encourage people not only to value-add to a product or to import substitute but also to move to more sustainable energy use in the future.

So I say to the minister that, in some of these issues, there are mixed messages still out there. The legislation that is before the House in theory does look as though it may do something. The monitoring that the minister will have to perform and the process of reporting back to the House will be very interesting to see the progress of this particular piece of legislation. There have been a few instances in this new parliament where remedies to readily identifiable problems such as the price of fuel—Fuelwatch I name as one; GroceryWatch is another—on the surface react to the demands of the community, who want something done about the price of fuel or the price of groceries to make sure that people are not ripping them off. This particular legislation will not go to the heart of those issues. But I think the government has to look very seriously at getting to the heart of those issues. That is what the community is wanting government to do—not put in place gimmicks that look as though they have identified the problem and they are going to fix it.

I will be supporting the legislation because I believe the penalties that have been put in place, even though relatively light in some cases, could in fact discourage some activity in terms of market power collusion, particularly in smaller and medium-sized businesses. I think in a lot of cases, as has been shown in the past, many of the major global players would see the penalties here as relatively minor and something that they would be quite prepared to pay if they can get away with it for a considerable period of time. I thank the House for its attention.

Mr BOWEN (Prospect—Minister for Competition Policy and Consumer Affairs, and Assistant Treasurer) (4.37 pm)—in reply—I thank all honourable members who participated in this debate today on the Trade Practices Amendment (Cartel Conduct and Other Measures) Bill 2008. In 1998 the OECD recommended that member nations ensure that their competition laws halt and deter hard-core cartels. In 2003 the Review of the Competition Provisions of the Trade Practices Act, otherwise known as the Dawson review, recommended the introduction into Australian law of criminal penalties for serious cartel conduct. The Dawson review concluded and recommended as such that criminal penalties were an effective deterrent to serious cartel behaviour. The introduction of this bill into parliament demonstrates our commitment to prevent and deter serious cartel conduct. It brings Australia into line with over 15 OECD nations that provide for criminal sanctions for such conduct.

This bill is overdue. Many honourable members have made that observation. It would have been better if it had been introduced by the previous government in response to the Dawson review. The Dawson review reported in 2003, almost six years ago to the day, at the end of January 2003. In turn, the Dawson review was in response to the 1998 recommendation of the OECD. So for 10 years we have been talking about this issue. The previous government announced that they would implement the decision of the Dawson review. They did that in 2005. It took them two years to consider the results of the Dawson review. The previous Treasurer, the member for Higgins, then announced that he would implement the legis-
Draft legislation was prepared but it was never released, never introduced. The previous government squibbed, reneged, on their commitment. The member for Fadden said the previous government had had this on their radar for some time. He was saying that that was a good thing. Well, they had it on their radar but they never pulled the trigger; they never brought the legislation to the House. They never implemented the very serious recommendations of the Dawson review.

This government has listened carefully to concerns around the trade practices community and industry around this bill. This is a complex piece of public policy to deal with. There are nuanced questions to be approached. While the bill is modelled on international proposals and the OECD model, there are of course changes necessary to ensure its effective operation in the Australian context. We have acted quickly but also very cautiously. I released for public comment in January last year the legislation that was prepared for the previous government. We then instigated a roundtable of trade practices experts—criminal lawyers, trade practices lawyers, academics and practitioners—to help us work through some of the nuanced issues. I met with that panel extensively. One of the members was the honourable member for Isaacs, Mark Dreyfus QC, and other members I acknowledged in my second reading speech. We made very considerable changes to the first draft legislation and then released the final legislation late last year. On 3 December the government referred the bill to the Senate Economics Committee for inquiry and report, which is appropriate for a big and complex piece of legislation which has nuanced issues to consider.

I would like to turn to some of the issues raised by honourable members during the course of the debate. I thank all who contributed from the other side, from the government and from the cross benches. I think all three Independents contributed to this debate. The member for Cowper led for the opposition and supported the broad thrust of the legislation, which I welcome. It does represent a considerable change of approach from the opposition given their reluctance to move on this issue during their time in government, but I do welcome their support. The honourable member for Cowper legitimately raised issues relating to the joint venture defence. It is a complex and nuanced issue. The Senate inquiry instigated by the government has received submissions expressing concern that the joint venture defence is too narrow and would limit legitimate business activities. Similarly the Senate committee has received submissions saying that the joint venture defence is too broad and would allow illegitimate cartel conduct to go unpunished. That underlines just how complex this issue is, and it is something that we spent a considerable amount of time on and I personally spent a considerable amount of time working through.

I found compelling the evidence of the Canadian experience, where the joint venture defence is broadly drafted and has been used, in the views of many, to provide a shield for illegitimate cartel conduct. We need to be careful that in drafting defences we do not allow illegitimate and what should be illegal cartel conduct to be hidden under the guise of a joint venture. I said throughout the drafting process that I was open to sensible suggestions, and I continue to remain open to any sensible suggestions. I think we have got the balance right but, if there are sensible suggestions which come out of the Senate process, of course I will consider them and take them on board. But it is a complex and nuanced issue and we have spent a considerable amount of time working on it, and I think the government have largely got the balance right.
The honourable member for Pearce in her contribution questioned the 10-year jail term and said that she thought 10 years was too long, which I found, I must say, surprising and disappointing. There are a number of offences, as the member for Lindsay pointed out, with 10-year jail terms. There is a 10-year prison sentence for directors who wilfully defraud or deceive a body corporate and for directors who fraudulently appropriate the property of a body corporate. These are very serious corporate offences, and cartel conduct is among these most serious corporate offences and should therefore be dealt with as such. So I strongly reject the criticisms of the member for Pearce that 10 years is too long a jail term and that we should have embraced seven years. I think it is a good thing that Australia will have equally the longest jail terms in the world, with the United States, for serious cartel conduct. There is much evidence that, when people are contemplating operating a cartel, the biggest disincentive is not a fine, because that is a cost of doing business; it is the prospect of losing their liberty—of being imprisoned for a very considerable amount of time. Ten years sends that message.

I have to turn to the contribution of the honourable member for Mackellar. I have to say in all seriousness that it was a particularly unfortunate contribution. This is a very serious matter, and I found the honourable member for Mackellar’s contribution—I do not say this lightly, and I have already thanked the opposition for their support—particularly unfortunate. She did a number of things. She attacked the chairman of the ACCC. We are used to that and the chairman of the ACCC is used to that; I do not think he will lose any sleep over that. She attacked his integrity. But what she also did was to ignore the longstanding convention of the House of Representatives that members do not comment on cases before the courts—the sub judice rule. We are all tempted to do it from time to time; sensible members resist. For the honourable member for Mackellar to do that in a criminal case—and House of Representatives practice makes it clear that honourable members should be particularly careful in criminal cases—is something that the honourable member should reflect on. The Leader of the Opposition should reflect on her behaviour in this matter and should deal with the honourable member for Mackellar’s contribution, which was particularly unfortunate.

The honourable member for Mackellar made it clear that she opposes this legislation. Despite the fact that the opposition is supporting it, the honourable member for Mackellar said on a number of occasions that she opposes this legislation. Presumably she opposed the recommendation of the shadow minister in the joint party room, and I have no doubt that she opposed the previous government in this matter. Perhaps that is one of the reasons the previous government did not act—because some on the other side hold these views.

The honourable member for Mackellar said that financial penalties are quite adequate and that there should not be a jail term for cartel conduct. We could not disagree more strongly. The honourable member for Mackellar has shown that she is completely out of touch with the impacts that cartel conduct has on the Australian people. The honourable member for Mackellar has shown that she is soft on cartels. The honourable member for Mackellar appears to believe that cartel conduct is legitimate business activity, and she should be condemned for her contribution, which is one of the most outrageous contributions in this House I have heard in my relatively brief time in the House. It was the most outrageous contribution I have heard in the House in four years, and I would encourage the Leader of the Op-
position to deal with the honourable member for Mackellar for breaching the sub judice convention, personally attacking the integrity of the chairman of the ACCC and completely ignoring the longstanding convention of the House of Representatives.

As I say, this is an important piece of legislation. Serious cartel behaviour is theft from consumers and is dealt with as such in the legislation. I understand that cartel cases are difficult to prove and notoriously hard to prosecute. Accordingly, it is appropriate that the legislation be well drafted. What the contributions from the honourable members opposite are notable for, as much as for what they say, is what they do not say. I do not mean that as a criticism, because it shows that we have reached a level of agreement in the House about some of these issues that, frankly, I expected to be more controversial. We thought deeply about giving the ACCC the power of telephone tapping, in conjunction with the Federal Police in the Federal Court, and I made the decision to recommend to the cabinet that we give the ACCC and the Federal Police those powers. I thought it might be controversial. The honourable member for Cowper expressed support for that, which I welcome. We also removed the necessity which was in the legislation prepared for the previous government to prove the intent to act dishonestly. Again, I found compelling the evidence from the United Kingdom when I met with the chairman of the United Kingdom Competition Commission partly to discuss these matters, which have made prosecutions in the United Kingdom very difficult indeed. Again, with the exception of the honourable member for Mackellar, I do not believe that any honourable member on the other side criticised that decision, which I welcome.

I will deal with the comments of the honourable member for New England, which I am sure he would agree were not particularly germane to the bill before us but which were nevertheless important. I will not deal with them in detail, because that would be appropriate at a different time, but I welcome his support for this bill. I am in the process of arranging for the Petrol Commissioner to brief honourable members on both sides, and I will arrange for the Petrol Commissioner to brief the honourable member for New England and his colleagues on the cross benches on the current situation in relation to petrol prices—the impact of the reduction in the Australian dollar and how that intersects with world oil prices and also with diesel—because I think he raises legitimate points. He is quite right that they also get raised with me on a regular basis inside and outside the House, and I understand his concern and the concern of other honourable members. I think it would be beneficial to have a briefing from the Petrol Commissioner, whom I obviously speak to on a very regular basis. He keeps me apprised of movements in the market, and I think it would be of benefit to honourable members to receive that briefing.

As I said, serious cartel behaviour is theft from the Australian consumers—thief which we will not tolerate and theft by the powerful from the powerless. This bill evens the ledger. It is another step to ensure that competition is not just a construct or a theory but a reality in the Australian market. Competition is the key means for ensuring that consumers get the best product or service for the lowest price. It also protects those businesses doing the right thing—businesses out there working hard, putting in tenders, reducing their prices to try and get business, and not colluding with the people who should be their competitors. Businesses doing the right thing deserve to know that businesses doing the wrong thing will be dealt with in the strictest possible way. The bill delivers on our commitment to introduce this legislation within 12 months of taking office but, as I
say, we have done that in a cautious and considered way and with full consultation. There are some who think it goes too far and there are some who think it does not go far enough, but I think we have struck the right balance and so I commend this very important piece of legislation to the House.

Question agreed to.

Bill read a second time.

Third Reading

Mr BOWEN (Prospect—Minister for Competition Policy and Consumer Affairs, and Assistant Treasurer) (4.52 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

COMMITTEES

Australian Crime Commission Committee

Public Accounts and Audit Committee

Membership

The DEPUTY SPEAKER (Hon. BC Scott)—Mr Speaker has received messages from the Senate acquainting the House of the appointment of Senator Boyce to the Parliamentary Joint Committee on the Australian Crime Commission in place of Senator Barnett, discharged; and the appointment of Senator Barnett to the Joint Committee of Public Accounts and Audit in place of Senator Boyce, discharged.

TAX LAWS AMENDMENT (TAXATION OF FINANCIAL ARRANGEMENTS) BILL 2008

Second Reading

Debate resumed from 4 December 2008, on motion by Mr Bowen:

That this bill be now read a second time.

Mr ANTHONY SMITH (Casey) (4.53 pm)—The opposition fully supports the passage of the Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008, which implements stages 3 and 4 of longstanding tax reform of financial arrangements. The measures in this bill are the final stages of the reforms that began under the former coalition government. These final reforms will remove complexity and distortions that arise from the current requirement in the law to distinguish between capital and revenue. The bill will provide certainty on the tax treatment of financial arrangements by defining in legislation the characteristics of a financial arrangement.

The reforms will mean that the tax treatment of financial arrangements will be based on their economic substance rather than their strict legal definition, which can lead to market distortions. This will of course result in a more equitable and genuine tax treatment of financial arrangements. Currently the tax treatment often differs from the accounting treatment. The reforms will allow taxpayers to elect to align the tax treatment with the accruals based system used for accounting purposes. This will lead to administrative and compliance cost-savings for applicable taxpayers. The reforms allow taxpayers to align the character and tax timing of eligible hedging arrangements as well, which will lead to better risk management by improving the tax treatment of hedging.

The reforms will be compulsory for certain taxpayers, as the Minister for Competition Policy and Consumer Affairs and Assistant Treasurer has outlined, and optional for others. As has been widely spoken about during the consultation period, they will be compulsory for approved deposit-taking institutions and all other entities that have a requirement to register under the Financial Services (Collection of Data) Act 2001 if their annual turnover exceeds $20 million. As we know from the explanatory memorandum and the bill, they will also be compulsory for superannuation funds and managed
investment schemes with assets exceeding $100 million, entities with financial assets exceeding $100 million, entities with an annual turnover exceeding $100 million and entities with assets exceeding $300 million. Of course, all other taxpayers may elect to make use of these reforms if they wish.

As I said at the outset, these reforms began under the previous coalition government. The whole TOFA process of reform has been going for a decade or more. Stage 1 of these reforms, which related to debt and equity measures, was legislated back in 2001. Stage 2, which related to foreign currency conversion rules and the realisation of foreign currency gains and losses, was legislated two years later in 2003. The previous government released draft legislation on the final stages in 2005, after which followed extensive consultation with the relevant taxpayers, industry groups and professional associations before those reforms were introduced in legislation into this place in September 2007. But of course that bill lapsed due to the calling of the federal election a month or so later. The reforms in each stage have been developed following extensive consultation and over a number of years. These reforms reflect the coalition side’s longstanding commitment to ensuring the integrity and operation of our tax system. As I said at the start, we will, naturally, be fully supporting the reforms in this bill—reforms which we began and which we introduced into this House prior to the last election.

As we know from the minister’s second reading speech, from the substance of the explanatory memorandum and from the bill itself, the bill defines what a financial arrangement is. The definition will cover the taxation treatment for a wide range of financial instruments that currently exist. The definition will provide certainty for taxpayers as financial arrangements develop over time. This will greatly assist taxpayers in determining their obligations and their tax affairs. In addition, the bill contains rules relating to the interaction of the reforms with the existing tax consolidation regime.

As members speaking in this debate and those who have been part of the consultation will know, the bill provides six methods that a taxpayer can apply to determine their tax. They are broken into two general classes: elective and non-elective. The non-elective methods will be used by taxpayers who do not wish to use one of the four elective methods, which I will outline in some detail for the benefit of those participating in the debate. The non-elective methods are simply the accruals method or the realisation method, methods that obviously exist at present. As for the non-elective methods, the bill will introduce four, as I said: the elective hedging method, the elective financial reports method, the elective fair value method and, finally, the elective foreign exchange retranslation method.

Just briefly: taxpayers can only use the first method, the hedging method, if their financial reports are prepared and audited according to existing standards. This will remove any post-tax mismatch that may arise from gains and losses being included in taxable income at different times and will align gains and losses to the tax treatment of the item that is being hedged. Similarly, if a hedged item is of a revenue nature then the hedging arrangement will be treated as such. It will allow for the consistent tax treatment of the hedging financial arrangement and the hedged item. The second method, the financial reports method, allows taxpayers to simply use their financial reports for assessing gains and losses arising from financial arrangements and, in that case, the taxpayer must meet a specific set of standards to be able to rely on their financial reports. The third method, the fair value method, is an existing accounting method. Finally, the
fourth method, the foreign exchange retranslation method, is relevant for taxpayers who denominate the gains and losses arising from currency exchange rates in a foreign currency or a non-functional currency. This method only deals with gains and losses that arise from changes in foreign currency exchange rates and is based on Australian Accounting Standard AASB 121—‘The Effects of Changes in Foreign Exchange Rates’. Taxpayers will not be able to change the method used over the duration of the financial arrangement.

In conclusion, this bill and this set of reforms are complex and that is why there has been considerable consultation. This is an area of law that has not kept up with the modernisation of financial arrangements. As I said, we are fully supporting this in both houses.

There is an inquiry being held into the provisions of this bill by the Senate Standing Committee on Economics, to which the bill was referred back in December. That committee is scheduled to hold some hearings on, I think, 16 February and to report just a few days later. Given the complexity of these reforms, and even though there has been widespread consultation, it is important that the committee provide an avenue for taxpayers to put in submissions on some of the technical aspects of the bill. I am advised that the committee has received nine submissions from Treasury, tax advisers and professional associations. I know there is broad support for this bill to be passed by parliament, and it is also recognised that there will be future amendments, once this bill has passed, dealing with technical issues.

Many of those who have made submissions or who have been part of the consultation have stressed that the implementation will inevitably reveal just that—the need for further technical amendments. It is in that light that the Senate committee is well placed to consider any arguments on technical issues that may arise, and these would be of a finetuning nature rather than of a substantive nature. In that light, if anything arises in the Senate committee’s inquiry it will enable the government to consider that, but it will not obviate our support for the bill in the Senate as well. Should this arise, of course, these issues will be considered. Even if some issues do arise that require technical further amendment, it is, as I said just a few minutes ago, quite inevitable with such a complex area of law that, down the track, there will be some amendments to this. But the substance of the reforms has the support of both sides of this House and I commend the bill to the House.

Mr NEUMANN (Blair) (5.05 pm)—I speak in support of the Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008. This piece of legislation has been a long time coming, like so many other pieces of legislation that the Rudd Labor government has brought to this chamber. This came back to this chamber after a lot of procrastination. I mean, we talked about the review of business taxation commonly known as the Ralph review; that urged change in 1999. The Howard government’s bill lapsed when parliament was prorogued back before the 2007 election.

This is a bill which on the surface of it does not look particularly exciting or interesting, but there will be accountants and businesses all over the country that will be very happy with what is a very business-friendly and economically savvy piece of legislation which will allow proper accounting methods to be used in the taxation of the vast array of financial arrangements which the Australian public now engages in. It is true to say that words like ‘options’ and ‘futures’ are ones that our parents and grandparents and their parents before them would
never have imagined; they are like something out of science fiction. But for businesses today those types of terms are things they know about and deal with every day.

Our response as a parliament to tax reform has been erratic. There seems to be little consistency in our treatment of the types of products that I referred to. The way we deal with the taxation of financial arrangements really does not reflect business reality. There is a great deal of inconsistency in how we treat these financial arrangements from a taxation point of view. So we need effectively a new code—we have called it a new division here—an all-encompassing definition of a financial arrangement, and some consistency. So we have the new proposed division 230. This is really the third and fourth stages of the reforms. The earlier amendments were done in 2001, when the debt equity rules, division 974, were introduced—that is known as stage 1—and in 2003, when the foreign currency gains and loss provisions, division 775, were introduced; that is known as stage 2. Stage 3 governs the treatment of hedges for taxation purposes, and stage 4 deals with the tax timing in relation to financial arrangements other than hedges.

This amendment will go a long way to ensure we have certainty, specificity and coherence in the way we treat our financial arrangements. It is a very good reform. Accruals calculations can be very difficult for business and accounting purposes. They are complex and there are significant compliance costs for businesses every single day of their operation. For more than 20 years, before I got elected to parliament in 2007, I ran a business. It frustrates people in business enormously to have to deal with the Taxation Office. We all know we have to pay our fair share of tax, because that is how we get hospitals, roads and schools, but making sure people are taxed fairly and justly and making sure there is efficiency in the system is extremely important. Aligning the character and timing of eligible hedging arrangements is important. Having a definition of a financial arrangement is extremely important for accountancy purposes.

We have got broad support. The Institute of Chartered Accountants in Australia on 20 January this year came out in support of this piece of legislation. The institute commended the government for introducing the bill. The institute expressed strongly its pleasure that the government had adopted a number of recommendations raised by the institute and other professional and industry bodies during the extensive consultation process following the exposure draft released by the Assistant Treasurer—who is in the House at the moment—on 1 October 2008. The institute foreshadowed there would be a number of other reforms as the legislation worked in reality for businesses in this country, and it said there would be a need to examine how the complex financial arrangements would interact with other provisions of the income tax law.

We need to be a financial hub in South-East Asia. Our competitors—places like Hong Kong and Singapore—have really stolen the march on us in so many respects. We need our businesses, in a time of global financial crisis, to be as efficient and effective as possible and to ensure that, when they engage in financial arrangements, they know with certainty how tax will be treated, how capital and income will be treated for taxation purposes.

It is extremely important that we also ensure that accountancy standards are used when we line up our tax laws. I commend the minister for ensuring that the Australian accounting standards—with respect to financial instruments and their recognition and measurement; with respect to the effects of
changes in foreign exchange rates; and with respect to consolidated and separate financial statements—have been taken into consideration and aligned for the purposes of taxation and accountancy law.

It is extremely important that we pass this amendment. It is extremely important for businesses such as the business that I ran and others to ensure that we have the proper arrangements in place so that we have alternative methods for bringing gains and losses arising from financial arrangements to account for taxation purposes. This is not, as I say, the kind of bill that most people would like to speak on in this House, but I think, as someone who was in business for a long time, it is important that we get our tax laws and our business laws aligned. Anything we can do to streamline the efficient and effective payment of tax in this country is good for business, good for the people of Australia and particularly good for the people of my electorate, who speak to me all the time about these types of issues. I commend the minister for bringing this bill to the House, I commend the government for what they have done in relation to reform in the area of taxation law and I warmly welcome the legislation that is before the House.

Mr BOWEN (Prospect—Minister for Competition Policy and Consumer Affairs, and Assistant Treasurer) (5.12 pm)—in reply—I thank the honourable member for Casey and the honourable member for Blair for their contributions. The Tax Laws Amendment (Taxation of Financial Arrangements) Bill 2008 represents an important reform to Australia’s financial taxation system. In fact, it represents a complete rewriting of the taxation of Australia’s financial arrangements. The passage of this bill will enhance efficiency in financial decision making by taxing financial arrangements according to their economic substance rather than their legal form. It will reduce tax distortions to managing financial risk by introducing extensive tax timing and character hedging rules and will reduce compliance costs by increasing the certainty of tax treatment of financial arrangements and by more closely aligning tax and finance accounting outcomes. The TOFA rules will not be applied on a mandatory basis to individual and small business taxpayers except where significant deferral of income is involved.

The bill has benefited from very extensive consultation with industry and professional associations and is much anticipated in the business sector. One of the results of this consultation which has been very extensive over the last 12 months was the government’s decision to implement a soft and hard start date. In the current environment, there are a lot of businesses very keen to get the benefits of the reduction in compliance costs and increased certainty. There are others who, while looking forward to embracing the regime in the longer run, need more time to adjust. This decision was a result of the consultation that was held with the industry and is reflected in the bill before the House.

Passage through the House of Representatives today will be another step forward in the TOFA process, which was first announced by Treasurer Dawkins in 1992. It is good to see the implementation of a budget measure in relation to that process—not a measure from the last budget, or the budget before, but from 1992.

As the member for Casey correctly pointed out to the House, this is a complex bill and it will need close monitoring. There will be reason to monitor its implementation and to make minor amendments as we go. The government fully recognises that and accepts that. There are likely to be finetuning issues that arise, and we stand ready to implement those on a case-by-case and needs basis. But, having had this around since
1992, the government certainly took the view that there was no good reason to delay any further, that those issues really needed to be fleshed out in the implementation and that the time for talk had finished; the time had come to introduce the TOFA legislation. I commend this very important bill to the House.

Question agreed to.

Bill read a second time.

Third Reading

Mr Bowen (Prospect—Minister for Competition Policy and Consumer Affairs, and Assistant Treasurer) (5.15 pm)—by leave—I move:

That this bill be now read a third time.

Question agreed to.

Bill read a third time.

Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008

Second Reading

Debate resumed from 3 December 2008, on motion by Mr McClelland:

That this bill be now read a second time.

Ms Ley (Farrer) (5.16 pm)—I rise on the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008, and it gives me pleasure to speak on this bill in the House today. This bill proposes to amend a package of antidiscrimination legislation, most importantly the Disability Discrimination Act 1992. In addition, some technical and cosmetic amendments are made—for example, changing the name of the Human Rights and Equal Opportunity Commission to the Australian Human Rights Commission.

As was mentioned in the very well written Bills Digest on this subject, the Disability Discrimination Act is part of a package of Commonwealth anti-discrimination laws. The Disability Discrimination Act makes disability discrimination unlawful by aiming to deal with physical and attitudinal barriers that act to directly and indirectly preclude people with disabilities from making optimal use of their knowledge, skills and talents such that they may effectively participate in our communities. It affords people with disabilities the right to substantive equality of opportunity in areas like employment, education and the provision of goods and services.

I would like to quote from the Disability Discrimination Commissioner, Mr Graeme Innes AM, in a speech that he made on the matter of human rights in December last year, particularly his comments about disability and the rights of those with disabilities to participate fully in society. Mr Innes said:

We need a cultural change in Australia when it comes to human rights issues – in the area of disability, and in many other areas. Unfortunately, people with a disability still face enormous hurdles in finding employment. The number of people employed in the Commonwealth public service - for instance - is a national disgrace – it has halved in the last ten years. If government wants to send a message to employers that it’s serious about the issue of employment of people with disability, and the inclusion of people with disability in society, it has to lead by example.

Our culture needs to change. People with a disability still swim in a sea of discrimination. Discrimination is pervasive, not because people are bad, but because our culture is such that when people encounter a person with disability, they still make all sorts of assumptions about what it is that they cannot do, rather than asking about what they can do. There’s a great quote from Rene Cassin, one of the drafters of the Universal Declaration of Human Rights, who pointed out during the drafting that it would be deceiving the peoples of the world to let them think that a legal provision was all that was required … when in fact an entire social structure had to be transformed.
Those are very appropriate remarks in the context of this debate today.

Important though the United Nations human rights declaration and conventions are, I know that to effectively participate in the community as a person with a disability you need to have the community fully accept you. If we look in our own electorates for examples, I think of Aware Industries, in the electorate of Farrer, which is well known and basically on the radar screen of every small business if they need a job done, whether it be checking the faulty cans that come out of the Mars factory pet food line or preparing pastries, danishes and cakes for local caterers, as I saw them doing recently, or just stepping in for a quick printing job when someone else’s machinery has failed. They fulfil an important role in the local community, and the local community supports them. That is the sort of culture that we need, importantly, to encourage.

Australia is a signatory to several international agreements that oblige it to address disability discrimination in good faith, and this means, among other measures, putting in place relevant laws and regulations and monitoring their effectiveness. As part of the former coalition government’s commitment to assessing all existing legislation on the basis of National Competition Policy principles, in early 2003 the Disability Discrimination Act was reviewed by the Productivity Commission. This review was designed to assess whether any restrictions on competition in the Disability Discrimination Act produce benefits that exceed costs and therefore justify the restrictions. Most of the amendments in this bill arise from recommendations by the Productivity Commission.

One of the principal amendments is the creation of a positive duty to make reasonable adjustments for a person with a disability. The test is whether a failure to make such adjustments has or would have the effect that the person with a disability is treated less favourably than a person without disability in circumstances that are not materially different. The proportionality test is to be replaced with a disadvantage test—that is, whether the requirement or condition that is the subject of a complaint is likely to have the effect of disadvantaging people with disability. The burden of proving that a requirement or condition placed upon a person with a disability is reasonable is to be upon the person imposing the requirement.

Amendments to the unjustifiable hardship defence contain additional criteria for the circumstances to be taken into account. These include the availability of financial and other assistance to the person claiming hardship in making adjustments for a person with a disability and the benefits or detriments accruing to the community as a result. The onus of proof lies with the person claiming unjustifiable hardship. There is provision for the minister to formulate disability standards on any matter covered by the Disability Discrimination Act. These standards will prevail over inconsistent state or territory legislation, but the relevant state or territory ministers must be consulted before standards are made.

The defence of inherent requirements is extended so that it is available to employers in most employment situations. This provides that it is not unlawful to discriminate against a person with a disability if he or she would be unable to perform the inherent requirements of the job, even if reasonable adjustments were made. The defence is not available if the employer denies the person access to opportunities for promotion, transfer and training or to access any other benefits associated with the employment. I note comment in the *Australian Financial Review* today in an article entitled ‘Disability law reforms likely to outrage’ under Steven
Scott’s by-line. The article refers to this bill and discusses some of the changes in brief and how they may affect employers. It makes reference to the Australian Chamber of Commerce and Industry, which has warned that changes could force employers to accommodate the needs of staff whose disabilities they may not know about. It is said that vague definitions of disability may be contained in this legislation when it is finalised which could see people with drug, gambling or pornography addictions protected from discrimination at work. The Chamber of Commerce wants these types of problems explicitly excluded from the definition of disability.

Importantly, this legislation has been referred to a Senate committee and it is very important that we as a parliament stand in support of the right of those with disabilities to participate fully in employment in our society. Given that the vast majority of the amendments that we are discussing do stem from changes made and instigated by the previous government, I feel that a very strong commitment will be there.

The Bills Digest explains that the bill clarifies that discrimination against a person on the basis of any of that person’s associates’ disability or due to a person possessing or being accompanied by an aid or assistant animal, such as a guide dog, interpreter, reader, assistant or carer, is equivalent to discrimination on the basis of that person’s disability. That amendment came in response to the decision of the full Federal Court in Forest v Queensland health. In that case, Mr Forest, who suffers from a mental illness, had a trained dog that accompanied him in public. He was refused entry to the Cairns Base Hospital and, on subsequent occasions, to a community centre with his dog. He lodged a discrimination complaint under the Disability Discrimination Act. The question for the court was whether Mr Forest’s dog was a guide dog, a hearing assistance dog or a trained animal under section 9 of the Disability Discrimination Act.

At first glance the Federal Court determined that Mr Forest did have a disability within the meaning of the act and the complaint of indirect discrimination was made out. It was found that it was unreasonable for the hospital and the community health centre to use their own discretion in this instance. Discrimination under section 9 of the act was also established as Mr Forest’s dog was not ill-behaved and was clearly trained to alleviate the effects of his owner’s disability. The state of Queensland appealed the decision and the full Federal Court reversed the decision on the grounds that for discrimination to be established it was insufficient for the less favourable treatment to be on the grounds that Mr Forest was accompanied by an assistance animal. What this means is that the law as it then stood was not looking after the interests of a person with a disability such as this gentleman’s in that situation and may have been applied to others with disabilities. So the amendment that corrects that decision has been, I understand, widely welcomed and of course we in the coalition support it.

In conclusion, this bill was referred to the Senate Legal and Constitutional Affairs Committee on 4 December 2008 for inquiry and report by 24 February 2009. The coalition supports the intention of the legislation, which is to help reduce discrimination for people with disability in the workplace. There are some aspects of detail upon which the Senate committee will report, and a final decision will be made once that report has been considered.

Mr SHORTEN (Maribyrnong—Parliamentary Secretary for Disabilities and Children’s Services) (5.27 pm)—It is a pleasure to be speaking on the Disability Discrimination and Other Human Rights Legis-
lation Amendment Bill 2008 today. It is fair to say that in Australia, the prejudice faced by people with disability is entrenched, systemic and subtle. It is experienced by people with disability every day, and it shapes all of their experiences and interactions with the wider world. To the difficulty in walking or seeing or speaking is added the treatment that they suffer and the discrimination they receive when others in our community might dismiss or ignore them, be it on a bus, in a workplace, in a job interview, in a shop or in a school. Some Australians with disability and impairment are made to know by other Australians that they wish they had never been born. I have spoken to mothers with two disabled children who have had unknown strangers speak to them in shopping centres and say, ‘Why did you have a second child?’

Australians are not malicious as a rule. But when it comes to impairment and disability, all too often there is unfortunately still in Australia a two-class society. It is not good and it is not appropriate that some Australians with impairment are still commonly treated in what can only be described as an unAustralian way. Impairment is a fact of life. You can acquire it through birth, through the blink of an eye in a motor car accident, in a workplace or indeed just through the passage of age. What, however, disables people with impairment are the attitudes within the community at large which focus solely upon a person’s impairment and not upon a person’s ability. I believe, and the Rudd government believes, that this sits badly in our democracy and that it sits badly with our culture of mateship and with our history of neighbourhood communion and kindliness that some people are still treated this way. I do not think it is too much to ask that people with an impairment be given a fair go.

This is modest legislation which we are debating today, but I believe it is another step towards normal human decency that we should go this far at least. Like all prejudice, prejudice against people with an impairment is born of ignorance and a lack of empathy with the experiences of others. It can come in the form of attitudes ranging from the patronising to the hostile. People with impairments continually have to deal with systems that have been designed without a thought for people who might have a physical or intellectual impairment or, indeed, a mental illness.

People with impairment know the frustration of living with barriers which, in the case of many of them, could be minimised or avoided with just a little expense and a small amount of thought and flexibility. Imagine if because of my skin colour, or if because of my gender I was refused entry on a bus, or refused a job, or refused entry to a school or university, or if I were refused the ability to own my own house. There would be an appropriate hue and cry in the nation. Yet all too often Australians with impairment suffer worse outcomes than other Australians because of their impairment.

As I have said, it is not the disability or the impairment of the person that is the problem; it is the neglect and the belief of too many in our society that disability is a bottomless hole that can never be fixed, and that no matter what you do you cannot solve the problems of those with impairment. I recognise that some impairments will not be fixed, but I do strongly believe that the barriers put up by the attitudes of others can all be removed. It is true that there have been improvements in attitudes over recent years. But people with disability are routinely treated in ways which no other group in the community would be expected to tolerate.

The Disability Discrimination Act came into effect in 1992. It was the first piece of federal legislation that made it illegal to dis-
It is amazing to think that fewer than 20 years ago people with disability in some parts of our Commonwealth had no legal protection against prejudice and discrimination. The cases which the Human Rights and Equal Opportunity Commission see every day reflect this: the woman who was refused a job as a telemarketer because she was blind in one eye, the man in a wheelchair who was told that he could not board a flight, the many people who have not been allowed to bring assistance animals into buildings. All of these people had to fend for themselves, pushing alone against the immovable barriers of ignorance and prejudice.

Today we are debating necessary improvements to that landmark piece of legislation. This bill will clarify and improve the operation of the Disability Discrimination Act and other human rights laws. It will enhance the protection offered to Australians with disability. It will ensure that where it is possible to make reasonable adjustments to accommodate people with disability, these adjustments will be made. This bill recognises that for people with disability to be fully included in society there will need to be positive changes made to accommodate them. People with an impairment should not be made to beg or complain or fight for these changes on their own. They should be provided to them as a right, because they are Australian. The bill will also clarify that discrimination on the basis of the disability of a person’s associates is illegal, as is discrimination on the basis of a person having a carer, an assistant, an assistance animal or a disability aid.

The bill will also bring the act up to date with scientific advances by making it clear that discrimination on the basis of a person’s genetic predisposition to impairment is unlawful. It will help enforce what we believe and what the Attorney-General believes are reasonable measures. This is an important part of the Rudd government’s ongoing commitment to enhancing the rights of people with disability and pursuing our goal of greater social inclusion.

The Disability Discrimination Act was reviewed by the Productivity Commission in 2004. The review was a rational, economic view of the legislation. The review found that the act had produced net benefits for the Australian community. The Productivity Commission also found that the objectives of the Disability Discrimination Act can only be met by legislation. We believe that non-regulatory approaches can complement the operation of the act, but they can never be a substitute for regulation protecting the rights of all. Australians with disability look to this parliament for leadership on this issue, and that is what we are delivering.

A major battleground in the area of disability rights is, of course, the workplace. It is shameful that employment rates for people with disability in our nation are still at around 50 per cent, compared with a much higher percentage for the rest of the Australian population. What has been going on in the long years of the economic boom, which have come to a recent close, that, whilst most Australians have increased their prosperity, all of the indicators of fairness and a just life for people with disability have been going in the opposite direction? These are ugly numbers which reflect poorly on the nation.

People with disability want the same opportunities for fulfilling and productive work as the rest of the population. People in this nation deserve to have a chance to contribute and to be useful regardless of impairment. If we can make just some adjustments to help this happen then all of us benefit. We need to create an understanding that employing people with disability is not a burden; it is not an act of charity; it is not too hard. In fact, it is a
solution which provides dignity and benefits for all.

Unfortunately, there are some employers whose attitudes towards people with disability are mired in the past. The disappointing comments from the Australian Chamber of Commerce and Industry, reported on page 4 of today’s *Australian Financial Review* are typical, I believe, of outmoded attitudes—attitudes which, I suggest, cloak unthinking prejudice and a layer of economic rationality. The comments focus solely on the perceived negatives of this bill. They allege it will have a negative effect on businesses, which will be forced to make adjustments to accommodate the needs of staff with disability. How outrageous that businesses should be forced to try to enjoy the benefits and the fruits of the whole diversity of the Australian workforce. I am sure that the same arguments were made against putting in toilets for women in workplaces or for the idea that people of colour could not work for the same wages as the rest of the Australian workforce. This is the category of comment to which those comments by the Australian Chamber of Commerce and Industry belong.

This legislation does protect the rights of employers. It clarifies that no employer will be required to undergo unjustifiable hardship to meet the needs of a person with disability. Imagine: Leo who cannot hear, Frank who is in a wheelchair, Stephen who has a communication difficulty—is it unjustifiable hardship to employ these people? Imagine if we did not have Ludwig van Beethoven, who could not hear; Stephen Hawking, the great scientist and physicist; Franklin Roosevelt, who was in a wheelchair. It is true, unfortunately, that in Australia some people when they go for a job interview with these impairments would not get past the interview selection process. How many Beethovens, Roosevelts and Hawkings are we missing out on in this nation because of the inability to move beyond looking at someone’s impairment to the whole person?

The attitude typified by the comments attributed by the media to the ACCI is outdated, antiquated, moth-eaten and fusty. The attitude of immediately thinking about the potential problems of hiring people with disability, rather than thinking of what they, with all their skills and experience, can contribute to a business, is the biggest barrier that people with disability face. The Human Rights Commission says that some employers cite an increased risk of worker compensation claims as a major barrier to employing people with disability—another straw man argument, a fig leaf to prejudice rather than an argument based on evidence. There is no evidence available to support this allegation. Similarly, the cost of work based accommodation is sometimes mentioned as a deal breaker in employing a person with disability. This is despite evidence from the United States suggesting that most modifications cost under $500.

Employers who have employed people with disability—and there are many, from small to large business—tell me that people with disabilities tend to remain longer in the same job and have fewer injuries at work than those without disability. Some people at the ACCI should get out and talk to their members who have made efforts to hire people with disability—and I know that there are efforts within that organisation to promote the employment of people with disability. That is why I was even more surprised by the comments reported today. I do believe that when you are an industry leader, be it in a trade union or as an employer, you have an obligation to lead, not to discourage. Furthermore, there was speculation, a vague spectre, that passing this bill would ensure that people with a drug, gambling or pornography addiction could be classified as disabled under this legislation. These claims are
irresponsible, scaremongering and factually wrong. This is insulting to thousands of Australians with serious disabilities who will have their rights safeguarded by this bill.

It has been said that there is no clear policy rationale to introduce these changes in a possible recessionary period. Since when have basic civil rights been based on the performance of the ASX or the Dow Jones? Using the global financial crisis as an excuse to deny fundamental rights to Australians with disability is simply prejudice disguised as reactionary economics. And there should be no way that we should be asking people with disability to take a backward step in their pursuit of equal rights or to continue to be at the back of the queue. If we did that, and if we do not push through with this bill, we might as well just admit that we consider people with disability to be second-class citizens.

The bill we are debating today is supported by the Productivity Commission, the Australian Law Reform Commission and parliamentary committee recommendations. The opposition signed up to the vast bulk of the recommendations when in government but unfortunately never had time to implement them. Indeed this bill is supported by the many businesses represented by the Australian Employers Network on Disability. I think some of the dissenters, as reported today in the media, should talk to any of the 86 members of the Australian Employers Network on Disability, companies that have already made a commitment to creating a level playing field and to drawing on the skills and talents of people with disability in the workforce. They include companies such as IBM, Woolworths, the National Australia Bank, Qantas, Telstra and KPMG. They have not found barriers. They have taken steps to employ more people with disability and to provide valuable work experience for young people with disability. Woolworths have employed an extra 287 people with disabilities since 2005, thanks to a very, very constructive partnership with that outstanding organisation Disability WORKS Australia. NAB employed an extra hundred people and was the first Australian company to lodge a disability action plan with the Human Rights and Equal Opportunity Commission.

This bill is one that benefits us all both in an economic sense and by enriching our society by helping unlock the potential of people with disability. In the long term the challenge of Australia’s ageing population can only be met by ensuring that the human potential of Australia is used to its full. We are a very small nation of the world, and we are not a nation that can afford to avoid, and to discriminate against, a vast pool of talent, which is people with impairment. We need to be employing and engaging older Australians, people with disability and Australians from non-English-speaking backgrounds.

This bill also contains safeguards to protect people from discrimination on the grounds of age. These provisions, which simply bring age discrimination laws in line with other discrimination laws, have also been questioned by some. However, policies to boost the number of people with disability in the workforce are long overdue. This legislation is needed to spearhead a cultural change in the way that businesses view people with disability. I am saddened and a little embarrassed to report that the number of people with disability employed by the Australian Public Service has declined over the last 10 years. This is not a failure on the part of people with disability; it is a failure of leadership, one which this government is determined to reverse.

This bill reaffirms the Rudd government’s commitment to upholding and strengthening the rights of people with disability. It reaffirms our belief that our community has a
duty to take the reasonable steps that are required to deliver equal access to people with disability. Let us be very clear today: this bill does not solve all the entrenched discrimination and second-class status which Australians with impairment undergo every day. The fact that Australians with impairment cannot shop in the same shops as other people because the shops are not designed to allow access, and the fact that Australians with impairment do not enjoy comparable levels of home ownership, comparable levels of access to tertiary education and the same level of income security and job employment as other Australians is a disgrace.

This bill is an attempt to rectify some of these wrongs, but it is fair to say, I believe, that discrimination against people with disability is one of the last frontiers of long overdue civil rights reform in Australia. Civil rights do not finish with legislation but they are certainly helped by legislation. For too long the voice of people with impairment has been one which has been shoved to the bottom of political priority. Indeed, we in this government have an opportunity in this parliament, through this bill and through other measures, to increase and provide equal treatment for people with disability.

It is not correct to say that this nation is too poor to afford the solutions which provide lifetime and lifelong care for people with disability. It is not correct to say that the issues of impairment are insoluble. It is not correct to say that we cannot find early intervention to assist each child born with impairment to try to get the best they can out of the education system. It is not correct to say that this country cannot afford the correct and fairest educational outcomes. These problems have been a long time in the making and they are not easily solved. But why is it that when it comes to disability we say that we can cover a percentage of the need but not the whole need? In other areas of endeavour, of social justice, fairness and equality in Australia, we have formed the view that we can solve problems. When it comes to disability we say, ‘Mmm, it’s a bit hard.’ We adopt the metaphorical attitude of kicking a stone around with the toe of our boot. We shrug our shoulders and say, ‘I don’t know how the carers and families do it; I don’t know how those marvellous para-Olympians do it, but really, they have their problems and we can’t solve them.’

This bill is, in a minor way and in a modest way, recognition that we can in fact provide equal treatment in this nation. This nation cannot claim to be a fair society when we have so many Australians excluded from participating equally in it. I believe that it is not up to people with impairment to demand the rights to which they are due; it is up to the rest of us to demand on behalf of people with impairment, and their families and carers, the rights which they are due. This proposed legislation does go some of the way. To quote Martin Luther King:

Judicial decrees may not change the heart, but they can restrain the heartless.

We may not be able to immediately change people’s negative attitudes to disability but we can ensure that people with a disability are given the opportunity to achieve their potential and be included in society. Access and fair treatment at work are fundamental sources of dignity and identity for people. By helping achieve them, I believe that we can start the process of changing attitudes in the long term and ensuring that people with a disability are at the centre of our society, not consigned to the margins. I commend the bill to the House.

Mr HUNT (Flinders) (5.46 pm)—In addressing the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 I want to begin with the words of the Parliamentary Secretary for
Disabilities and Children’s Services. He spoke fine words, powerful words, words with which I do not disagree, but words to which I shall hold him accountable. I say this to the member for Maribyrnong, the Parliamentary Secretary for Disabilities and Children’s Services: you are right when you talk about the need for independence for those with disabilities, whether physical or mental, whether in terms of the impairment of eyesight or other elements, but that power is in part within your gift. When the parliamentary secretary says, ‘Those with disabilities should not have to do all the work for themselves,’ he is again right, but it is my task now to say to him that we have a challenge with real people on the Mornington Peninsula which has been with him for over a year, and I want to use this bill to address a serious issue of denial of support and assistance for those with disabilities on the Mornington Peninsula.

The Frankston-Peninsula Carers Inc. of Mornington Peninsula put forward a plan for supported accommodation in Hastings. It is for people with intellectual disabilities, whether inherent or acquired, who are seeking the simple proposition of independent but supported living. That proposal was announced and supported by the previous government. I would ask that the parliamentary secretary take note of this. It has been with him for over a year, and all his words are fine words, but he alone is the person with the ability to turn those words into action and, for all those words, we have not had a response, we have not had an answer and we have not had a result. So it is a fine thing to stand before the dispatch box in this House and say how much one cares, but when you have the power, the authority, the legislative ability, the financial capacity and the moral purpose but you do not deal with that issue—and despite having made such a fine speech—then there are simple questions.

Somebody has to stand up for people such as Beryl and David Gibb, Karl Hill, Don Hodgins and those who are members of and working with the Frankston-Peninsula Carers Inc. That group is seeking to establish a form of supported accommodation, was on the cusp of achieving that prior to the election and was dumbfounded after the election to find that the responsibility had been transferred to the state—and the state has said it is a federal responsibility, such that nobody is responsible.

My message, very simply, gives a short, brief response to this bill, which is that for all the words spoken by the government’s representative—all fine, all sustainable, all real, all important—make them reality by really taking the time to bring this one centre into being. We had a plan, a proposal—a program—but it was taken away after the election. So, for those carers who are elderly, who are concerned about their own ability to care for adults with intellectual disability and who want to give their children both the security and the independence of supported accommodation, this bill is the moment—this bill is the opportunity. If the parliamentary secretary’s words are to mean anything, I would ask him to remember the conversation we had in his office, I would ask him to do more than smile and say, ‘Yes, I’ll do something, mate,’ and I would ask him to actually deliver a result. We had a program, a proposal and something that was about to be achieved, and the parents who have lived for 20 and 30 years, sometimes 40 years, taking care of children on the Mornington Peninsula just want to give their kids independence and a way forward.

So I support this bill. It is a fine bill. It is drawn in large part from the Productivity Commission’s 2004 Review of the Disability Discrimination Act 1992. I am not going to take issue or engage on the detail; the bill captures what is necessary. But if the parlia-
mentary secretary, who is somebody whom I respect, means the words he said today, he will help find a solution and not just claim that it is a state responsibility, because the states claim that he is responsible for the parents and the children who have now become adults with a disability on the Mornington Peninsula. There is one test, one outcome. Make this bill a reality, Parliamentary Secretary, by giving the Frankston-Peninsula Carers Inc. a solution for their supported accommodation in Hastings.

Ms CAMPBELL (Bass) (5.52 pm)—I rise today to speak in support of what on the surface might sound like a dry, legalistic piece of legislation but which, at its heart, is designed to fundamentally improve the functioning of the Disability Discrimination Act. The Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 implements the key recommendations of the Productivity Commission’s 2004 review. In particular, it makes it clear that there is a general duty to make ‘reasonable adjustments’ for people with a disability. In my home state of Tasmania this is particularly relevant. Tasmania has one of the highest levels of expressed rates of disability in the country. It is in the vicinity of 23 per cent—that is, around 100,000 people. The 2003 Survey of Disability, Ageing and Carers found that around 23.5 per cent of Tasmanians reported some form of disability. Disability was defined as any ‘limitation, restriction or impairment which has lasted, or is likely to last, for at least six months and which restricts everyday activities.’ Examples ranged from hearing loss requiring the use of a hearing aid or difficulty dressing due to arthritis, through to advanced dementia requiring constant help and supervision. There was little difference in the percentage of males and females with a disability—around 23.2 per cent and 23.8 per cent respectively. Approximately 18.9 per cent of males and 21.6 per cent of females in the 2003 survey reported having a core activity limitation—including communication, mobility and self-care—and/or a schooling or employment limitation. Surely, the very least that we, as a society, can offer them is that we ensure ‘reasonable adjustments’ are made to accommodate their disability.

As I said, on the surface this seems to be a legalistic and semantic piece of legislation. I will, if I may, spell out for the House exactly what this legislation will do. It will make explicit the general duty to make reasonable adjustments, excluding adjustments that would cause unjustifiable hardship. It extends the defence of unjustifiable hardship to all unlawful discrimination in the Disability Discrimination Act, except harassment and victimisation, and it will extend the defence of inherent requirements to all employment situations, except where it would be meaningless or inappropriate, and clarify matters to be considered when determining unjustifiable hardship. This legislation will clarify that ‘disability’ includes a genetic predisposition to a disability and that it includes behaviour that is a symptom or manifestation of a disability. This is consistent with the High Court’s Purvis decision of 2003.

This legislation amends the definition of indirect discrimination to remove the proportionality test, placing on a respondent the onus of showing a requirement is reasonable, and include incidences of proposed indirect discrimination. It will ensure that the ‘special measures’ and Migration Act 1958 exemptions from the Disability Discrimination Act do not exempt general actions that are incidental to those measures. It allows disability standards to be formulated in relation to any area in which it is unlawful to discriminate under the Disability Discrimination Act and for a standard to set out the extent to which it can override state and territory laws on the same topic. It clarifies that discrimination on
the basis of a disability of any of a person’s associates, as well as discrimination on the basis of having a carer, assistant, assistance animal or disability aid, is discrimination on the basis of disability—overcoming the Forest decision of the Federal Court. It will improve the recognition of assistance animals, clarify the obligations of potential discriminators and people with assistance animals and extend the public health exemption in the Disability Discrimination Act to diseases of assistance animals.

This legislation also applies to the Age Discrimination Act 2004 and the Human Rights and Equal Opportunity Commission Act 1986. Regarding the former, this legislation removes the dominant purpose test so that, if an act is done for two or more reasons and one of those reasons is the age of the person, the age of the person will no longer need to be the dominant or substantial reason for that act to be found to be discriminatory; regarding the latter, it changes the name of the commission to the Australian Human Rights Commission. It also extends the period within which a person can take a terminated complaint to the Federal Court or Federal Magistrates Court from 28 days to 60 days and enhances the commission’s ability to handle complaints efficiently and effectively by giving powers to the president to finalise complaints that have been settled.

Make no mistake, for those people to whom these acts apply these changes have been a long time coming, and they greatly improve the operation of the Disability Discrimination Act and other human rights laws. It does this, as I said, by implementing the recommendations from, among other reports, the Productivity Commission’s 2004 report. It also clarifies aspects of the Disability Discrimination Act which have been in doubt due to court decisions. It improves the complaint-handling process for the commission and forms an integral part of the Rudd government’s commitment to enhancing the rights of people with a disability. It will assist in the pursuit of our goal of enhancing greater social inclusion.

With that focus on social inclusion in mind, I will host a social inclusion forum next month in my electorate of Bass. I am grateful for the opportunity to do so alongside Senator Ursula Stephens. I note the Senator’s commitment, drive and passion and commend her work in the dual roles of Parliamentary Secretary for Social Inclusion and the Voluntary Sector and Parliamentary Secretary Assisting the Prime Minister for Social Inclusion. It is in these capacities that Senator Stephens will visit Tasmania next month, and I look forward to facilitating an ongoing dialogue between the Rudd government and key stakeholders across a range of sectors in Bass. These sectors include disability services, migrant support services, counselling and trauma support services, to name a few. All these groups are critical to a functioning and inclusive community. They provide the services and support to reduce the marginalisation of the most vulnerable in our society. I take this opportunity to commend the work carried out by these groups and individuals across northern Tasmania.

I have spoken in this House before about the unique opportunities afforded me by the privileged position I hold and about the amazing people with whom I come into contact in my capacity as the member for Bass. Prior to Christmas, I had the wonderful joy of visiting the Adult Day Support Service at Rocherlea. The staff, including Tony Crothers, Belinda Ferrier and Eleanor Kramer, provide amazing support and care for around 90 participants from the greater Launceston region. Gail O’Conner and Liz Scholes opened their pottery and craft workshop to me, and Mark Lynch and Michael Stott were kind enough to share with me their music. They are tireless in their commitment and
they give not only their time and expertise but their love to those in their care.

Their work is supported in the wider community by people like Kev Smith. Kev runs an outfit called Kev's Tricycle Hire and provides hours of untold joy. To talk with Kev is to understand some of the compassion which is evident across Bass and northern Tasmania. Kev's bicycles are specially designed to allow those people who would otherwise never ride a bike to enjoy the freedom which comes from feeling the wind in your face. Those who have used his service tell stories of families uniting in a pastime which was previously unavailable to them—and let me tell you: it is an absolute joy to watch. These are the kinds of people, I am proud to say, who call northern Tasmania home.

As a government, we are committed to supporting their work through the steps we have taken to reform and improve the lives of people with disabilities, including the development of a national disability strategy and the ratification of the United Nations Convention on the Rights of Persons with Disabilities. Both the Minister for Families, Housing, Community Services and Indigenous Affairs, the Hon. Jenny Macklin, and the Parliamentary Secretary for Disabilities and Children's Services, the Hon. Bill Shorten, have visited my electorate of Bass. Those whom they met on those visits know them to be absolutely committed to their portfolios. They also know them to be honest about the task they face in fundamentally improving the lives of those with disabilities. The Parliamentary Secretary for Disabilities and Children's Services heard firsthand, at a forum I held in Launceston last year, from key stakeholders and people who have a form of disability. I thank them both for their commitment to Bass and to northern Tasmania and I look forward to working with them in the future, as this government continues with its agenda of social inclusion and a greater focus on the values which underpin a humane and decent society.

How we treat our elderly, how we raise our children and how we show compassion and commitment to those people with disabilities says a great deal about us as people and about our society. The Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 implements recommended changes and improves various aspects of the Disability Discrimination Act, and I am proud to commend it to the House.

Dr JENSEN (Tangney) (6.03 pm)—The members opposite are to be commended for embracing the spirit of the Howard government and adhering to its principle of ensuring a fair go for all Australians. But I hope those opposite will not become too complacent about what may appear to be praise, because it is only in the key principles that they have succeeded. In the detail, their efforts rank as a failure, as in just about every other matter that they turn their hands to. Just as Medusa could turn men to stone, so the Rudd administration turn matters of government to farce. Their bungling work would be comical if it were not so damaging.

In the case of the bill before us today, the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008, giving all a fair go means ensuring fair treatment of the disabled in our society. Many of the elements of this bill are long overdue. Indeed, the Howard government had agreed to several aspects of the bill. The fact that the government have been in office for more than a year and still have not dealt with this matter reflects their true feelings on helping the less fortunate in our society.

The bill explicitly spells out for the first time that all of us must make 'reasonable adjustments' to cater for people with disabilities. Of course, the definition of what is reasonable is open to interpretation, though I
hope that common sense would prevail. It would seem reasonable, for example, to expect a large public building—perhaps one such as this—to cater for the disabled by providing ramps and special toilet facilities. However, it would be unreasonable to expect the same of my local fish and chip shop. And this is where the cracks first appear in the bill before us. There is no indication of what might constitute a ‘reasonable adjustment’. Imagine an aggrieved person in a wheelchair, in concert with—to put it mildly—overzealous legal practitioners who seek to push the boundaries of reason and common sense past breaking point. The person might claim it is unreasonable that he or she cannot get over the steps to the fish and chip shop or that a toilet for the disabled is not provided should he or she need one while waiting for food—in the event that they overcome the first obstacle. Of course, such a scenario seems ridiculous. But the government has done nothing to deliver clarity on this issue, and it is the very nature of the litigation industry to exploit such holes.

Even more disturbing is the shifting of the burden of proof in this bill. Our entire legal system is based on the applicant having to prove their case against the respondent. Certainly, in civil law there is a lesser burden of proof than in criminal matters, but the burden of proof still resides with the first party. The government, in this amateurish pamphlet it would have become law, has turned that system on its head. It wants the burden of proof to be on the respondent, who would have to demonstrate that any given adjustment was ‘unreasonable’. The bill does make provision for a defence that making some adjustments would cause ‘unjustifiable hardship’ but, again, it fails to indicate what might or might not be an acceptable level of suffering for a respondent.

The Attorney-General, in a document purporting to explain this bill, says:

… unjustifiable hardship includes consideration of the costs and benefits to all persons, expanding the criteria to include availability of financial and other assistance …

He goes on to say:

… all the relevant circumstances of the particular case must be taken into account, including ‘the nature of the benefit or detriment likely to accrue or be suffered by any persons concerned’. Relevant case law has interpreted ‘any persons concerned’ as extending beyond the immediate parties to the dispute … This item inserts an example at the end of the section to clarify that the nature of the benefit or detriment likely to accrue or be suffered by the community is one of the factors to be taken into account …

That is a lot of words which ultimately tell us nothing, other than ‘unjustifiable hardship’ can mean whatever someone wants it to mean, even if they are not involved in the case at all. The bandying around of such undefined terms in this context does a disservice to the disabled and so to society at large.

Here is another wild application of generality in this element of the bill. It is supposedly intended to guarantee that a disabled person is not treated differently from others in circumstances which are not materially different. The document goes on to say that the fact a disabled person requires additional facilities, equipment or services does not qualify as making their situation ‘materially different’ from that of others. So, presumably, by this measure my fish and chip shop would be obliged to install ramps and a toilet for the disabled. Why shouldn’t the complainant have to prove that their demand is reasonable? How can we, on one hand, treat the disabled as equals but, on the other hand, say that they must be treated differently? I absolutely endorse the principle that the disabled should be treated as equals wherever possible, and that qualification is not intended to give wriggling room for discrimination. It is simply to acknowledge the reality that disabilities do necessarily preclude
participation in certain situations. For example, I do not want a blind pilot in the cockpit when I fly back to Perth later this week. I do not want a child or a truck driver at the controls, either, because they would also be unable to fly the plane as required. I support the rights of the disabled and agree with many disabled people of my acquaintance that they should be judged and treated first as humans and should live according to what they can do, not what they cannot.

It is patronising in the extreme to suggest they be granted special privilege because of their disabilities. This concept is offensive to most disabled people, who have perhaps learnt more than most of the rest of us to deal with their handicaps and make the most of their attributes. As Helen Keller said:

I thank God for my handicaps, for through them I have found myself, my work, and my God.

Helen Keller was blind and deaf. The wording of this bill marks yet another slip on the long slide towards a hellish world where ridiculous political correctness—a trait ingrained in many members opposite—reigns supreme.

Another sign of this descent into madness can be found further into the bill, with an amendment to reduce the exemption from the Disability Discrimination Act in immigration matters. When in government we opposed this measure, not because of any wish to discriminate against the disabled, but simply to protect the interests of Australia and its citizens. That is what a government is supposed to do. Members opposite were in opposition so long that maybe they have forgotten that. At the time the issue was raised, we said:

... the existing exemption set out in section 52 of the DDA is necessary and appropriate.

While Australia’s immigration laws do not exclude persons with disabilities from visiting or migrating to Australia, they do contain health requirements that must be satisfied. The health requirements include that the person does not have a disease or condition that would be likely to result in a significant cost to the Australian community in health care or community services; or prejudice the access of Australian citizens or permanent residents to such services.

You would think that this would be a perfectly reasonable stance to take. But, no, not in this bill and not for the government. The government would rather damage the national interest than be accused of being un-PC by their chardonnay-sipping amateur socialist mates. This amendment relating to discrimination, like most of this bill, also lacks specifics and is wide open to interpretation, and that is a problem which could come to haunt us all.

The Department of Immigration and Citizenship specifically asked to be involved in any attempt to amend this section of the Disability Discrimination Act, stressing that particular care must be taken in separating the criteria and decision making for Australian entry and migration visa categories from general administrative actions because of the overlap between the two. Of course, this particular amendment is a knee-jerk response to the government being left red-faced last year when Dr Bernard Moeller’s application for permanent residency was refused because he had a son with Down syndrome and that was expected to incur a significant cost to Australia. When we were in government, we did not flip and flop according to the headlines of the day. There was no need to, because we never made a mess of things, which the present government does. We stood firmly behind the health requirements for issuing visas, but we also recognised genuine, compassionate grounds such as family ties and granted waivers where appropriate.

One element of the bill which has been sensibly carried over from the Howard government is extending exemption from the
provision of the Disability Discrimination Act to employers, under the defence of ‘inherent requirements’, if employees are unable to perform the inherent requirements of the job, even after reasonable adjustments have been made. This defence is not available in cases where a disabled person is denied access to opportunities for promotion, transfer, training or any other employment benefits. Of course, these exemptions are quite rightly geared to protect disabled people who are already employed. There is no such protection for an employee who becomes unable to meet the requirements of their job, including by becoming disabled, and they could be dismissed or have their terms and conditions of employment changed as a result. And here, not surprisingly, the ugly bedmate of affirmative action raises its grotesque head.

Discrimination which is intended to confer some advantage on disabled people is acceptable, according to the explanatory memorandum, as long as it is ‘necessary to implement the measure for the benefit of the person with the disability’. This is the same disastrous approach the ALP has taken in dealing with other sections of society, most notably with Indigenous people and with women, and it continues to belittle and make automatic victims of the target group and offend the wider community. I reiterate: if you start giving advantages to one particular group regardless of individual circumstance, you are not treating them as equals but as helpless children.

Today’s bill reveals further contradictions, not least in the area of genetic material. The government wants to change the definition of ‘disability’ to include genetic predispositions to disabilities as well as ‘behaviour that is a symptom or manifestation of the disability’. So you are now disabled if you have a family history of certain conditions. At the same time, the government wants to bar employers from ‘requesting or requiring genetic information from a job applicant or employee, except where the information is reasonably required for purposes that do not involve unlawful discrimination’. Yet again, what is ‘reasonable’? This measure seems particularly short-sighted given the vast strides made in recent years in genetic research—progress which can be expected to continue in future. A key component of this research is identification of specific genetic traits, including those which indicate predisposition to certain conditions. Under the definition in this bill, this research could render many of us disabled even though we show absolutely no symptoms at all. All of this politically correct hype is at best an irritant to society and at worst potentially explosive.

Like most of us in this House, I meet a wide range of people every day. They come from all walks of life and all sorts of backgrounds. But I see them all as Australians. I do not see them as Indigenous Australians, Asian Australians, deaf Australians, Christian Australians, female Australians or vegetarian Australians. They are all simply Australians—many, if not all, of whom have characteristics which some would have us say distinguish them as members of certain groups within the wider community. To me, that is not only irrelevant but divisive and possibly dangerous. It is what we have in common, our way of life, our values and our aspirations, which are important, not the differences that are between us. The differences add colour to the mix but are not key factors at the end of the day.

The members opposite, however, prefer to emphasise the differences between us. Perhaps they should listen to their ideological American cousin, Jesse Jackson, who said: The white, the Hispanic, the black, the Arab, the Jew, the woman, the Native American, the small farmer, the businessperson, the environmentalist, the peace activist, the young, the old, the lesbian,
the gay and the disabled make up the American quilt.

The same could be said of Australia. The sophistry of the government’s approach to equal opportunity has fostered an unjust system where people are no longer allowed to speak truths and where discrimination has been given state endorsement, so long as it is of the affirmative action variety. While there are many things to admire about the United States, the rise of political correctness is not one of them. The Urban Dictionary, a forthright online reference originating from that country, defines ‘politically correct’ thus:

The laws of moral and ethical relativism; all systems of cultures and thought are equal in value, stemming from a perceived guilt from white liberals who believe that the Western Civilization is the root of all evil to the exclusion of all else.

It also adds that political correctness is:

A powerful form of censorship—

and—

A method of controlling and dictating public speech and thought.

Political correctness is not something we should be fostering in Australia, a society long renowned for its frankness and its fair go mentality. Some members of this House are short; they are not vertically challenged. Others are fat, though the extreme PC crowd would have us say they are horizontally gifted. I am sad to say that I am balding, though I would never describe myself as follicularly challenged. This refusal to speak forthrightly and the insistence on defining people by their differences and their handicaps, for want of a better word, is the thin end of the wedge in the rise of political correctness.

This bill would have us take much the same stance with the disabled, and this entire approach is wrong. Some Australians are at a disadvantage to the majority. They deserve and need our support to participate in society and be given the same opportunities as everyone else. They deserve the chance to make the most of their skills and abilities and to be treated as all other Australians. Instead of foisting yet more legislation on employers in this country—especially one so open to judicial activism—perhaps we should first be looking at what we are currently not doing properly.

I have been approached, as has my colleague the member for Stirling, by the Disabled Workers Union. This wonderful group is actually helping the disabled in the most positive and real way—by helping them get gainful employment or training and offering them protection from exploitation. The DWU has in the past received government funding, because of course by definition the people they serve cannot afford to pay much for DWU’s services. This funding has been cut off by this so-called caring government, basically because of bureaucratic semantics. Before burdening the country, especially employers, with another lawyers’ picnic of regulation, how about spending a few measly thousand dollars and do some real good? I challenge the minister to stop hiding behind technical jargon and support the DWU, which is actually in the business of real help for the disabled. They do not deserve condescension, pity or patronising affirmative action. They do not deserve to be treated as being different or as not being among us. We all deserve to be treated for what we are first and foremost—Australians.

Mr NEUMANN (Blair) (6.22 pm)—I rise to speak in support of the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008. After I was elected in 2007 I came to this chamber and listened to speeches made by those opposite. I am always interested in the speeches made by the member for Kooyong, the member for Murray and the member for Farrer, who is in the House at the moment. They always make
interesting and worthy contributions. I may not agree with everything they say but they are dedicated parliamentarians who really exemplify a proportion of our society—the small ‘I’ liberal type proportion, whose views are legitimate in our society. But there are some people who I have listened to since I came to this place whose views I simply cannot respect.

I wonder how the members that I have given praise to can sit in the same party room as the member for Tangney, who tonight has given us what I would describe as a Hanso-nite type response to this legislation. It was a mean-spirited and quite offensive attempt to belittle this legislation, which was put forward with the best of intentions and is supposed to be supported by his side of the House. I wonder whether he actually listened to the contribution of the member for Farrer before he came into this chamber. I know that there are so many members opposite who are concerned, like we are, about ending discrimination against people with a disability and also those who suffer discrimination on the basis of their age.

The member for Tangney consistently used pejorative expressions about those sitting on this side of the House. He said that we had spent so long in opposition we had forgotten things. Sadly, there are some on that side of the House who have spent so long in power that they have forgotten things. One of the things that they forgot to do, as is the case with so much of what we have had to pick up, is genuine reform in the area of disability. It is interesting to look at the attitude of the then Howard government and the attitude of the now opposition, because you see that generally they support what we are doing. It was an extraordinary performance by the member for Tangney to criticise and cast aspersions on the actions and motivations of the Rudd Labor government in relation to reform.

I will give a short history lesson: it was Labor governments who brought in reformist legislation in the area of discrimination—the Racial Discrimination Act 1975 was brought in by the Whitlam Labor government, the Sex Discrimination Act 1984 was brought in by the Hawke Labor government, the Human Rights and Equal Opportunity Commission Act 1986 was brought in by the Hawke Labor government and the Disability Discrimination Act 1992 was brought in by the Keating Labor government. It was Labor governments who brought forward the legislative reforms which have made enormous differences in the lives of people with a disability. And again it has been left to a Labor government to bring forward reforms which are long overdue and should have been done when the Howard government had the recommendations of the Productivity Commission report in 2004. They simply did not do their duty as a government. They did not bring in legislative reforms; they did not do what we are now doing. It is all right for the member for Tangney to criticise our motivation for what we have done and what we are proposing to do to help people suffering from discrimination but we are the ones, on this side of the House, who are helping, through this legislation, those with a disability.

Justice Kirby has said—and this is a great statement by a great jurist:

… the modern notion of democracy, at least in a country such as Australia, is far more complex than simple majoritarian rule. It is a sophisticated form of government which involves the general ability of the will of the majority to prevail but in a legal and social context in which the rights of vulnerable minorities are respected and defended …

That is a wonderful statement from a very fine judge.

We have signed various international agreements which obligate us to address dis-
ability discrimination in good faith and we are doing so with this legislation. The minister who is responsible for this legislation, the Attorney-General, made it very clear in his second reading speech that the reforms in relation to disability uphold and strengthen the rights of people with a disability, demonstrate our commitment and accord with our attitude towards the UN Convention on the Rights of Persons with Disabilities.

One of the key elements in this particular legislation introduces an explicit and positive duty to make reasonable adjustments for people with disability. The member for Tangney went on and on defending his position in relation to this matter, but the opposition has accepted what was a recommendation of the Productivity Commission in 2004 in this regard. The bill here simply clarifies the existing rights and obligations on employers, service providers and others to make reasonable adjustments to remove discrimination against people with disability. We had the Purvis High Court decision a little while ago, which caused some consternation and cast some doubt on this particular meaning. We are incorporating the High Court’s interpretation to ensure there is no doubt at all in relation to much of this legislation. For example, in the area of assistance animals, we have ensured that the law is crystal clear. The Forest decision has effectively been overturned and you will see in the reforms we are bringing in that the rights of people with disability, which seemed never to be a high priority for those opposite, are being respected in our legislation.

In this legislation we are making it explicit that the definition of disability also includes a genetic predisposition to a disability. That is pretty obvious, but we need to make it very clear. Like the Parliamentary Secretary for Disabilities and Children’s Services, the member for Maribyrnong, I was appalled to read comments in the Australian Financial Review on 11 February by the Australian Chamber of Commerce and Industry, warning that the changes in this bill would force employers to accommodate the needs of staff whose disabilities they may not know about. I thought that was a heartless attitude. It was an attitude expressed in terms of the almighty dollar being over and above those most vulnerable in our community. Protection of those with disability and the aged says so much about where we are going as a country and about our humanity and our commitment to social inclusion.

It is important that we make it clear to employers that they must include people with disability in their workplaces as full members of their staff, that they give every opportunity to those people to gain employment and that assistance animals are accepted in workplaces and in hospitals—such as in the case of the Forest matter—or in other public amenities. It must be very clear to the Australian public that we will not tolerate discrimination against those with serious disability.

I will tell you why this part of the legislation is important from my point of view in the Blair electorate. It is something that goes back a long way and that is why it is really important. We have a very high number of people in my electorate with disability. Way back in 1878 an institution was established called the Sandy Gallop lunatic asylum, which later became known as the Challinor Centre. That institution dealt with people with disability and was the subject of a lot of dispute and controversy. Eventually, the Challinor Centre was closed down and a more caring model of care for the disabled was brought in in Queensland. The reforms were initiated by a former member for Ipswich, former Liberal Deputy Premier in the Joh Bjelke-Petersen government Sir Llew Edwards, and have been followed up by David Hamill, the member for Ipswich in the
Queensland legislative assembly. The reforms resulted in the site of the old lunatic asylum, the old Challinor Centre, becoming the site for the University of Queensland Ipswich campus.

In a circuitous way I am getting to the point, Madam Deputy Speaker. The Queensland government has established Australia’s first disability centre of excellence on that very site at the University of Queensland Ipswich campus. The Queensland government is to be commended for its $113 million investment, a four-year response to the Carter report in reshaping Queensland’s disability service sector. Ipswich campus in my electorate of Blair will lead the way in research, developing best practice models for dealing with people with disability and rolling out the kinds of programs to help improve the quality of life for people with disability, helping many Queenslanders and also many Australians. The research undertaken at that particular site will go a long way to helping people with disability, as will this legislation that is before the House today. I am so pleased to speak on this particular legislation because it marries in with my strong commitment to the centre of excellence at the University of Queensland Ipswich campus.

Many groups have arisen in my electorate as a result of the historical commitment to disability services in the Ipswich area. The Friends of Challinor Aid League, FOCAL, run a wonderful facility helping people with disability. They offer family respite, vacation care programs and much more. That group arose out of long-held community support for the Challinor Centre going back to 1973. There is tremendous support from the Rudd Labor government for the Extra Support for Children with Disability Program Outside School Hours Care. We have committed $23.6 million to the initiative over five years and I am pleased to say that my electorate is the recipient of much of the funding. But we need legislation, as in this legislation before the House, to help people with disability. That is why this particular piece of legislation is just so important for the people of my electorate.

I want to focus on a local aspect by praising the work of CODI, the Coordinating Organisation for the Disabled in Ipswich. It is a non-profit organisation that helps the frail, the elderly and people with a disability with their transport. It is funded by HACC for the Ipswich-West Moreton area, and I am pleased to say I am a great supporter of CODI. It has done a wonderful job over a long period of time. So you can see, Madam Deputy Speaker, that in my electorate this legislation will make a big difference.

The second aspect of the bill I want to talk on very briefly relates to age discrimination. The Attorney-General and the Minister for Ageing made it very clear in a press release they issued on 1 October last year that we were intent on amending the Age Discrimination Act 2004 to remove the ‘dominant reason’ test. The current test is that a person’s age must be the dominant reason that something has been done for it to constitute discrimination under the act. That is inconsistent with other federal unlawful discrimination laws. The legislative change we are talking about here, which follows a bipartisan report of the House of Representatives Standing Committee on Legal and Constitutional Affairs, Older people and the law, is an important change in this area.

My electorate of Blair has a lot of aged-care facilities. Three are run by the Baptist Union of Queensland, and I was a member of the board of that organisation for 14 years before I was elected in 2007. Aged care is an area that I am really interested in, as a person and as a politician. I think it is important that we care for our aged, and I know that the
Queensland Aged Care Alliance was highly critical of the previous government in relation to funding. The Rudd Labor government has, through its minister and through the Treasury, committed huge sums of money, far more than the previous coalition government ever had the intestinal fortitude to commit, to aged care: $40 billion for the aged in community care, $28.6 billion of which will be spent on nursing homes and hostels alone, and $2.2 billion on community care. In my electorate our senior citizens in aged care will receive $1.5 million at Cabanda Aged Care, a wonderful community program and project in Rosewood, just west of Ipswich, and RSL Care is getting an interest-free loan of millions of dollars as part of the Rudd Labor government’s election commitment.

The aged-care sector is always a challenge, but discrimination against our senior citizens is just intolerable. We must recognise that we have the second-longest lifespan in the world, behind that of the Japanese, and if we want to treat our senior citizens with respect we ought to legislate that we do so. A law has an educative framework to it. It says that discrimination against disabled people is wrong. It says a lot about what we believe as a country. Discrimination against the aged, our senior citizens, is also simply wrong and unacceptable in a decent, humane society that aspires to social inclusion. So the reforms in this legislation are important for my electorate in the area of disability and in dealing with our senior citizens.

The other reforms in the bill include changing the name of the Human Rights and Equal Opportunity Commission to the Australian Human Rights Commission, extending the time a person has for making a complaint to the Federal Court or Federal Magistrates Court from 28 days to 60 days and enhancing the capacity of the commission to deal with complaints, which effectively gives the president power to finalise those complaints when they have been settled by compromise or agreement.

The bill that is before us is a genuine commitment by the Rudd Labor government, offered with real humanitarian care for senior citizens and those who are vulnerable in society by virtue of the challenges they face through no fault of their own but by accident, by genetics or simply by the sad fact that things that were out of their control have happened in their lives. It is sad that business has criticised this legislation. It is sad that the member for Tangney has criticised this legislation. It is sad that there are still people in our society whom this legislation must be used to stand up to. We need to care for our senior citizens. We need to care for those with disabilities. We need to make them feel as much a part of the Australian family as is humanly possible. This is a great legislative reform, a great Labor initiative. I commend the bill to the House.

Mr SIMPKINS (Cowan) (6.42 pm)—I seek to make a contribution on the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008. I will begin by stating that if we are to drive this country forward and keep it being the best it possibly can be then we should always be a little critical of our performance and strive to do better. We should, however, always be constructive in that criticism and not be afraid of comparing ourselves positively in the context of the wider international community.

Rather than concentrate on our shortcomings, I feel that we should not be worried as much by what the international community thinks of us, given that we are towards the front on providing opportunities for the disabled and removing discrimination. Certainly there will always be more to be done, and we should never accept that we have achieved
everything, but we have no reason to feel that the international community should judge us badly.

I will now move through the legislation before us and comment on a number of matters. The first matter relates to the amendment of section 16 of the Age Discrimination Act 2004. This section as amended certainly makes sense. It seems appropriate that, regardless of whether an act of discrimination is the dominant reason for an employer acting against an employee, the mere fact that a person was treated differently and that the treatment was as a result merely of the age of a person is wrong and should be dealt with. That, of course, seems different from a person being unable to undertake their assigned duties and being dealt with on those grounds. That should not be involved in the amended act.

I would also say that in reading this act I personally gained a great deal from the experience. I found section 33 very interesting as it relates to positive discrimination. I have never held a position of great support towards the concept of positive discrimination. I still subscribe to the position that the vast majority of those in this nation are in a position where they can compete equally on the merits of their character and their education. For those who cannot due to circumstances beyond their control, I appreciate the fact that, for example, in this act section 33 allows points of positive discrimination such as seniors’ discounts and specific scholarships.

I will now move on to the schedule 2 amendments, which make changes to the Disability Discrimination Act 1992. I note the changes to section 4 interpretations and the reference to section 9, which is essentially about guide dogs and assistance animals. These changes are worth while and will refine the act after these amendments are passed. Given the nature of the amendments and that this matter is fundamentally about disabilities, I would also like to speak about the challenges, the efforts and the successes of the education support centre at Wanneroo Senior High School. The principal of Wanneroo Senior High School is Pauline White, and she has led the school at Wanneroo Senior High for four years. The school has a small education support centre, or ESC, of one classroom, which caters for nine students this year ranging from year 8 to, in the case of one student, what is the equivalent of year 13. The ESC draws children from the surrounding district and provides them with progressive programs and opportunities to develop their potential in the areas of community skills, independent-living skills and work skills.

In 2009 Wanneroo Senior High School will undertake the ASDAN pilot program for year 11 and year 12 students. I know that the ESC teacher, Debra MacDonald, is very excited about implementing the Award Scheme Development and Accreditation Network, which offers credits and awards for self-management, work and study skills, and problem solving. I understand that ASDAN was developed in the UK and is working very well in New Zealand. While I am very pleased to be able to speak about the great work being done at Wanneroo Senior High School, it is with a little regret that I realise that the school has never before been mentioned in the House Hansard and so I am pleased to correct that situation today.

When I started speaking about Wanneroo Senior High School and the education support centre I did so with some level of understanding of the challenges facing those with disabilities. Last year one of the ESC students adopted me as part of the politician adoption scheme. Justin Cox is now in year 10. Justin has septo-optic dysplasia, which is a visual impairment, with epilepsy, hormone
deficiencies and an intellectual disability. Justin is a very friendly young man and despite his visual impairment loves his basketball and his time down at the local gym. That time at the gym has helped him to lose weight, and in fourth term last year his hard work paid off and he was awarded the school’s flexibility award. I would also mention that Justin Cox has been greatly assisted by Nadine Williams, an education assistant at the ESC. I have met Justin’s mum, Sue, and his stepdad, Steve, and it is great that Justin now has a baby brother, Cayl. I know that Justin is doing very well at Wanneroo Senior High School and I pay tribute to the dedicated efforts of his teacher Debra MacDonald; her education assistant, Nadine Williams; and all the staff at Wanneroo high for all the work they do to integrate students with disabilities into mainstream classes and to educate mainstream students about the challenges presented by disabilities.

I understand that the nine students in the ESC have nine different sets of needs—not even two students would be classed in the same disability group. The challenges facing the students and the staff range from learning disabilities to severe cerebral palsy. If it were not for the professional and dedicated staff at Wanneroo high, such as Debra MacDonald and Nadine Williams, children with disabilities and the community in general would be far worse off. As the federal member for Cowan I thank them and the other staff at Wanneroo Senior High School for the work they do.

I should also make mention of another excellent organisation that operates in the northern suburbs of Perth, and in particular Girrawheen, within the Cowan electorate. In December last year I was invited to the Valued Independent People, or VIP, organisation’s end-of-year function. VIP provides a flexible, daytime occupation focusing on community access, integration and participation for people with disabilities, according to their needs and desires. VIP’s staff and volunteers provide services to school leavers and older people with disabilities under the Post School Options and the Alternatives to Employment programs. These services are for people who live at home or in hostels or group homes. VIP operates on the principle that each person is an individual and they plan the service around his or her needs, interests and aspirations. VIP provides services for adults who have intellectual and/or physical disabilities and who require a daytime activity as an alternative to employment.

The CEO of VIP is Margaret Walsh. She is supported by training and support officer Cheryl Rogers and administration and finance officer Lynn Smith. At the Girrawheen centre, the supervisor is Pam Haunold and the assistant supervisor is Linda Norman. They also have other centres at Nollamara and Hamersley, in the electorate of Stirling. VIP is a great organisation that does excellent work for a lot of families and people who have disabilities. At the function that I attended it was very clear that the board, the management and the staff of VIP approach the service they provide seriously and with great personal regard and respect for the people with disabilities who they assist. I think very highly of the VIP team and all their volunteers. I wish them well for the expansion of their operations and their new facility in Duncraig in the electorate of Moore.

Finally I would like to make mention of the Landsdale Family Support Association in Darch. For over 10 years this not-for-profit organisation has been providing support to children with special needs and their families. They provide holiday camps, accommodation and respite care. For example, they provide camp activities and accommodation on the weekends for two-day blocks and also
over the weekdays of the school holidays in five-day blocks, giving respite to families and interesting activities for the children. The executive officer is Andre Shannon and his staff are Carly Latcham, the service manager; Cathy Watkins, the administration manager; Kaitlyn Morrell, the receptionist; and the chairman of the board, John Morrell. A special mention must be made of the respite carers and host families, such as the Keeble family, who do so much to help these children.

I have digressed a lot in my speech on this bill. This bill is very technical and detailed. I see the value in the changes the government is proposing and I support those changes and the bill in total. I support it because I have had the opportunity to see the challenges that face families and the challenges that young people with disabilities face in their futures. Those challenges are not insurmountable, but the physical challenges of their disabilities are enough for them to deal with, let alone any form of discrimination placed in their path to reaching their overall potential. I commend the bill to the House.

Mr DREYFUS (Isaacs) (6.52 pm)—I rise today to speak in favour of the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008. The amendments contained in this bill reflected Labor’s longstanding commitment to human rights. The enjoyment of full citizenship by all Australians requires the existence of a legislative framework to protect the rights of each and every Australian and help to ensure full participation of every Australian in civic and economic life.

The Disability Discrimination Act 1992 built on the Whitlam government’s Race Discrimination Act 1975, which was legislation of historic significance on the road to reconciliation with Australia’s Indigenous people. It of course was the enactment in Australia of rights that Australia is obliged to bring into our domestic law through an international covenant. I could mention also that the Disability Discrimination Act built on the Hawke government’s Sex Discrimination Act of 1998, which reflected the Labor commitment to the elimination of all forms of discrimination against women. It is worth mentioning also the establishment of the Human Rights and Equal Opportunity Commission in 1986 under the Hawke government.

The Rudd government is continuing Labor’s concern for the human rights of all Australians and of all people in Australia, having announced on 10 December last year, which was the 60th anniversary of the Universal Declaration of Human Rights, the National Human Rights Consultation, chaired by Father Frank Brennan and now under way. Members will recall that in the first sitting week of last year, Father Brennan was here in the parliament to announce the way in which the Human Rights Consultation is going to be conducted over the first half of this year.

The bill before us today will enact much needed reforms to the federal antidiscrimination framework. It clarifies the existing laws and ensures that the legislative shield protecting the rights of Australians keeps pace with fast-moving digital technology and developments in genetics. It also adopts many of the recommendations of the 2004 Productivity Commission’s Review of the Disability
Discrimination Act 1992. This bill reflects the government’s commitment to protecting the human rights of all Australians. The bill is also a statement of the trust the Rudd government has in our peak human rights body, the Australian Human Rights Commission, an organisation which I regret to say was somewhat sidelined during what is properly thought of as a long winter for human rights over the 12 years of the coalition government. More generally, these amendments are part of a renewal of interest in and engagement with issues relating to the human rights of all people in Australia that has occurred since November 2007. It is not acceptable for the Commonwealth to pay only grudging attention to human rights. It is not acceptable for the Commonwealth to ignore the fact that Australia, as a signatory to a whole range of international covenants, has obligations not only to bring into our domestic law those human rights obligations but to improve our domestic law where we have already at some earlier time made law in this area.

The amendments will make it clear that discrimination on the basis of genetic predisposition is unlawful. Commencing in February 2001, the Australian Law Reform Commission undertook a joint inquiry with the Australian Health Ethics Committee into the protection of human genetic information. This bill adopts the recommendation in their report, which was entitled Essentially yours, to the effect that the definition of disability should include a genetic predisposition to disability. The discrimination with which this amendment is dealing is a phenomenon that has advanced with technology. However, as early as 1998 the United States National Human Genome Research Institute identified 550 people who had suffered discrimination in employment or insurance on the basis of unsubstantiated genetic possibilities. Similarly a study by Dr Kristine Barlow-Stewart, now the director of the Centre for Genetics Education at the Royal North Shore Hospital in Sydney, found instances of discrimination against sufferers of haemochromatosis, inherited breast and bowel cancer and Alzheimer’s disease.

When disability was defined purely in terms of impairment or, as section 4(1)(e) of the Disability Discrimination Act provides, ‘malfunction, malformation or disfigurement of a part of the person’s body’, there was confusion as to whether a healthy person with no malformation could make use of the legislation. However, the very injustice of this form of discrimination is that any such malformation may never eventuate. In her 1999 study Dr Barlow-Stewart identified at least three cases of completely healthy individuals with a genetic potential for late onset neurological disorders who were demoted or sacked when their employer became aware of their genetic condition. After the passage of these amendments, this form of discrimination will be unlawful.

These amendments also acknowledge the difficulty of compliance for some organisations and small businesses. Where conformity with human rights legislation is unduly onerous or inappropriate, the defence of unjustifiable hardship will be extended to some organisations, ensuring that rights, tempered by reasonableness, continue to be recognised throughout Australia.

By way of example, as some other speakers in this debate have mentioned, the High Court, in a case known as Purvis v New South Wales, looked at the situation of a student at Grafton High School. The court held that the school was only able to use the defence of unjustifiable hardship in relation to admitting students to the school and not in relation to the way in which a student must be treated once admitted and enrolled at the school. Once the school had admitted a student with particular needs, the school could
not require that child to attend a school with more appropriate facilities if care became too difficult, even as the child’s condition changed. For these reasons, the amendments have made some changes to the defence of unjustifiable hardship.

The amendments will also make changes to the criteria for indirect discrimination. The Equal Opportunity Commission in my state of Victoria submitted that the previous criteria were, to use their words, ‘unwieldy and difficult’, causing confusion for both complainants and respondents. The former proportionality test imposed an unnecessary evidentiary burden on complainants. Instead, under the changes that are brought in by these amendments, the onus would fall on the organisation to show that the conditions they impose are reasonable.

The amendments also seek to overcome the decision of the Federal Court in Forest v Queensland Health. That case concerned an incident at Cairns Base Hospital where a sufferer from a psychiatric disorder who claimed his dog was an assistance animal was denied entry on the basis that the animal was not a guide or hearing dog or a dog approved by hospital management. Assistance animals are an essential part of securing the independence and mobility of people with a vision impairment. In my state of Victoria, 69 per cent of all people who are blind or vision impaired are unemployed. For this reason the government is committed to ensuring that being mobile with an assistance animal is not in any way a further handicap to people with a disability, and for this reason the amendments clarify that discrimination on the basis of having a carer, an assistance animal or a disability aid is discrimination on the basis of a disability.

The amendments also make some changes to the age discrimination framework. Until now, where age discrimination was a factor but not the dominant factor in a decision, older Australians have been unable to make a claim of discrimination. The Human Rights and Equal Opportunity Commission always opposed this. It is at odds with the way in which tests for discrimination are set out in the Sex Discrimination Act and in the Disability Discrimination Act, which do not have a dominant reason test. Former High Court justice Sir Ronald Wilson, as the HREOC commissioner, noted the difficulty in the Racial Discrimination Act of sifting a dominant reason out of several competing reasons, which led to the eventual removal of that dominant reason test from the Racial Discrimination Act in 1990.

This particular amendment is the implementation of a recommendation made by the House of Representatives Standing Committee on Legal and Constitutional Affairs in the last parliament. That is the committee which I now chair but which in the last parliament was chaired by the present deputy chair of the committee, the Hon. Peter Slipper. In a lengthy report entitled Older persons and the law, there were a number of recommendations. One of those recommendations, in the clearest possible terms, was for the removal from age discrimination law of the dominant reason criterion. One can readily see why it is that that recommendation was made. It is one which simply brings the age discrimination law in this country into line with other antidiscrimination statutes. It is hard to see why there could be any opposition to that particular change, and it is certainly a change that is supported not only, as I say, by that report of the legal and constitutional affairs committee in the last parliament but by the Law Council of Australia, the Australian Human Rights Commission and many other interested people.

To explain it a little bit further, prejudice of any sort often hides behind a more amiable face of excuses such as ‘lack of experi-
ence’ or ‘wrong attitude’, but the fact remains that these excuses are just that. An example has been given of an Australian company that was accused of citing a lack of ‘behavioural competencies’ to disguise the discrimination in their selection criteria. It is because of that problem of reasons often being stated which are very far from the actual reason that it is important that it be possible to judge all forms of discrimination without reference to a dominant reason kind of test.

The amendments also change the legal name of the Human Rights and Equal Opportunity Commission to bring it into line with the new corporate identity which was launched last year. The new name, the Australian Human Rights Commission, clarifies the national stature of the commission and distinguishes it from similar bodies in the states and territories. The removal of the phrase ‘equal opportunity’ from the name emphasises that the inherent dignity of each human being includes equal opportunity and that our freedom from persecution and discrimination is not severable from our human rights.

A number of speakers in this debate have commented on a very unfortunate article that appeared in the Australian Financial Review this morning, which quotes comments made by an official of the Australian Chamber of Commerce and Industry. It would appear that those comments are something of a late attack, if you like, on a bill which contains amendments that have, in the case of almost all of them, been a number of years in the making, there was very wide consultation during the preparation of them, they have been endorsed by almost all interested bodies and people who have made submissions and the bulk of them were accepted by the opposition when they were in government. Why it is that we should be asked to endure the kind of unreasoned and really quite intemperate attack that has been advanced here by the Australian Chamber of Commerce and Industry is something of a mystery. In fact, it would not be going too far to say that it is uninformed attack.

It is uninformed in a similar way to what I would describe as the bizarre rant that we heard from the member for Tangney in the debate on this bill just a few minutes ago. It was bizarre to hear a member of this House using phrases like ‘ridiculous political correctness’ and ‘a lawyer’s picnic of regulation’ in his rant against imagined political correctness. Perhaps, to give him some credit, it was mildly entertaining to hear him going through his familiar list of phrases like ‘height challenged’, ‘vertically challenged’ or ‘follicly challenged’—I think that was the phrase that he used—leading to his attack, which was to the effect that this bill contained amendments and changes to discrimination law which involved, as he saw it, ‘a refusal to speak forthrightly’.

There is no refusal to speak forthrightly on the government benches and nor, in putting forward this legislation, could the Rudd government be accused of anything remotely like a refusal to speak forthrightly. This bill speaks forthrightly about the need to correct discrimination against Australians who suffer from discrimination because of various forms of disability. It is an attempt to ensure that all Australians will be able to, as much as they can, live the most productive lives in our society. As do all reforms of this nature,
dealing with the elimination of discrimination suffered by Australian citizens, it is a bill that will lead to an enriching of our society. Far from being in any sense a refusal to speak forthrightly, it is in fact an engagement with and a square-facing of the problems suffered by those amongst us—those of our citizens and those who live with us even if they are not citizens—as a result of one or other disability.

It is very important that it be understood that all people in Australia have the right to lead as full a life as they can, a life which is free of discrimination by other members of their society against them because of some disability. I want to quote something that I heard Justice Kirby say extrajudicially—in other words, not in court—in a speech that I saw Justice Kirby give at Melbourne High School in 2000 to, as I recall, the political interest group of Melbourne High School, a group that my two sons were then members of. In speaking to the Melbourne High School students, Justice Kirby said this about respect for human rights in our country:

…the modern notion of democracy, at least in a country such as Australia, is far more complex than simple majoritarian rule. It is a sophisticated form of government which involves the general ability of the will of the majority to prevail but in a legal and social context in which the rights of vulnerable minorities are respected and defended—particularly where such minorities are unpopular.

That is the kind of thinking that underlies these amendments to parts of Australia’s discrimination laws.

There are vulnerable minorities in our society. There are vulnerable minorities who suffer from discrimination by other parts of our society. The people who are part of those vulnerable minorities have rights, and legislation like this ensures that those rights are respected and it defends those rights. I commend the bill to the House.

Mr OAKESHOTT (Lyne) (7.12 pm)—I rise to speak in support of the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008 and I do so as the son of a man who has spent his life improving the quantity and quality of life for people with disabilities. I start with this and mention it with pride because—as a consequence of growing up playing at places like the House With No Steps in Lismore and learning to swim at the hydrotherapy pool at North Shore Hospital, which was mentioned by the previous speaker, and associating with many people who, on the surface, would be defined as people with disabilities but who, in so many ways, have strengths which many able-bodied people of the world can certainly learn from—I can report to the House that, if this bill is a step towards the future where all are treated the same, which is the background that I come from, then the future is certainly a good one. The future is one that does not have a mere step or a mere handrail or a lack of consideration for these simple, built-form acts of acceptance and grace; the future is one where these simple impediments do not get in the way and are not points of difference when we all have so much to celebrate and enjoy together within Australian society.

I know that several speakers since the member for Tangney spoke have made reference to his speech, but there was one point in that speech that I certainly agree with, and that is that all of us in this chamber do need to focus on what unites us and we do need to work on what we have in common. But that is the point at which he lost me and where I am fundamentally opposed to the logic put forward in that speech by that honourable member. In my time in this chamber, even though it has been short, I would have to give that speech the points for being what I consider the most poorly considered contribution to date. In a week where there have
been some tremendous contributions made in bipartisan spirit, that speech certainly disappointed me and, I would hope, would disappoint parliamentary colleagues.

The reason for my disappointment at the contribution of the member for Tangney is that it is our job here as members of parliament to promote more than the simple Darwinian theories of survival of the fittest, and we have a job to do in making sure that our society is not ruled by the simple laws of the jungle. If these theses are true, we may as well shut this place down, as none of us has a role or a purpose in public policy if that is the case. That is where I hope the honourable member reflects and considers what his role is in celebrating a life enjoyed by all. This is the exact point made by Justice Kirby when he was talking about this very topic and discussing the nature of Australian democracy and the balancing act in human rights, where, yes, we work for the majority but in doing so we have to defend the rights of individuals and the vulnerable minorities. They need to be respected and defended and that is what this legislation is contributing in building a better Australia.

I was surprised by the contribution of the member for Tangney because, when I look through the background notes with regard to this legislation, this bill looks to be the product of a rich bipartisan history on this matter. It started in 2004, when the coalition government was in place, following recommendations from the Productivity Commission. I was pleased to see that most of those recommendations were accepted by the coalition government at the time. The roots of this bill and its bipartisan background bring together all of us in this chamber, bar a few. I support this legislation because, from my point of view, I want to engage with all Australians at a practical level. I have just moved an electoral office because of poor access issues, in that it was denying people access to their local member. I want to be able to talk to everyone, as I would hope all members of this chamber would like to do within their own electorates. I do not do this to be airy-fairy, antsy-pantsy, chardonnay sipping or an amateur socialist, which I think is another term that was used. Rest assured that my reasons for doing so are far from wanting to be any of those. I do this to celebrate life in all its many wonderful, varied, confused and challenging shapes and forms. My life and our life is a lesser place if a simple step means I have fewer people to celebrate life with, and my community and our community is a lesser place if a simple step means we have fewer people to celebrate life with. I will be pleased to see this bill go through the parliament because my country and our country is a lesser place if a simple step means we have fewer people engaged in the celebration of Australian life. I welcome the legislation, I applaud its bipartisan roots and I certainly look forward to it making a real difference in community life in Australia.

Mr RIPOLL (Oxley) (7.18 pm)—It is with great pleasure that I speak on the Disability Discrimination and Other Human Rights Legislation Amendment Bill 2008. A lot of good bills that come into this place take a long time both to get here and to take the really great steps forward that legislation can achieve in this place. This bill is one of those great bills that really do make a difference out in the community. It is something that, as a member of parliament, I am very proud to associate myself with and support. I know that we in here are all supportive of removing barriers for all Australians—people with disabilities and anybody who has some sort of barrier in front of them. I know that we in here are all supportive of removing either regulatory or legislative barriers, as well as physical and emotional barriers and other things that impede people’s ability to make a full contribution and, as we
heard from the previous speaker, celebrate life—good words about the contribution that so many different people can make.

I spent a little time thinking about what this bill meant to me and how important it was. Maybe I have an unfair advantage in this place, in that one of the schools I went to, Corinda State High School, which is in my electorate, was a little unique, particularly in the days when I attended that high school. We had a student cohort there with profound disabilities. They were integrated as part of the school in probably an unusual environment for the time. Every class had a student with some form of disability, be they in a wheelchair or something of the like. It was a great experience for me, as a student, to be in a class with somebody who was deemed to have a disability, somebody with some sort of impairment, because it really taught me a whole heap of lessons. One of the most important lessons that it taught me is that in the end we are really just the same. Whatever our physical attributes might be, whatever limitations are placed in front of us, whatever physical things we may or may not be able to do, we are really all just the same, with the same wants, needs and desires, and in the things we want to achieve in life. We laugh about the same things and share a common humour. There is a whole range of things. It made me, over a period of time, almost blind to people’s disabilities because no longer did I see the disability—I just saw the person. I did not realise until I was much older just how much impact that had on my life—to be able to be in a room with people who have profound disabilities and not feel uncomfortable and to be able to be with people that other people have trouble or difficulty in talking to because they only see the disability and do not see the person first. So maybe I have some advantage over others in this House who have not had that experience.

When I looked at this bill and what was proposed, I supported it. It is a good bill. Any steps that we can take in here to remove physical, regulatory and other barriers so that people can enjoy a full life are really important. The changes in this legislation relating to recognising the different needs of people are laudable. I believe that clarifying that ‘disability’ does include people who have a genetic predisposition to a disability is important, as is looking at the definition of indirect discrimination—how discrimination itself plays a role in our society. Such was the case when I was a youngster at school, but what was not acceptable in those days is much more commonplace and acceptable today. We have made progress in our capacity to move beyond the way things were. I think that we can see that as part of a continual change in improvement and acceptance, just as in parliament we are giving better recognition for people who use animals for assistance and other aids and recognising that those people’s carers may have particular needs for those animals as well. In all these different measures we are helping people with a disability to go about their lives and business with as much support as is needed. It certainly does, I think, go to the core of some of the issues.

I just want to deal with a couple of other measures, in particular the ‘special measures’ in the Migration Act 1958 which exempted from the Disability Discrimination Act—general actions that were incidental for those measures at the time. It is important that we are dealing with those in this bill as well. Also important are the standards that are formulated in terms of the Disability Discrimination Act and relate to actions that are unlawful, particularly in the way in which they can override state and territory laws in the same area. It is a good way for the Commonwealth to override, in a whole range of
areas, inconsistencies that exist across states and territories.

Also important in this bill, particularly in relation to discrimination on the basis of age, is the removal of a particular dominant purpose test. It was the case that, where there was more than one reason for discrimination, the dominant reason had to be age. The change now is that that no longer needs to be the case. If there is more than one reason for discrimination, the other reason could be just as important as age. The reality is—in life and in society—that discrimination continues, and it continues on the basis of a whole range of factors, be they age, disability, assistance animals or a range of other factors. Continually improving the legislation that we have in order to remove those barriers is, I think, the key purpose in what is being done here today.

This bill will improve the operation of the Disability Discrimination Act and other human rights laws. It comes out of some key recommendations of the 2004 Productivity Commission report and other reports, and it goes a fair way in clarifying important aspects of the Disability Discrimination Act. The bill, as I said, also removes the dominant purpose test in complaint-handling processes for the commission and changes the legal name of the commission to better reflect what the commission does. In the end, these changes further enhance the rights of all people in this country, whether they have a disability or not, and assists in pursuing our goals—and, I think, everybody’s goals in this place—of greater social inclusion, which takes me back to where I started. When I was at school, as for all young people growing up, difference was a very obvious and important factor in the way we lived our lives. The more that sense of difference is removed and not made a basis for discrimination and the more people can be included in all the things that we do, the more they can enjoy a better life. So to support this bill is, for me, a great pleasure. It is a good bill, and it is something which I think this House is fully supportive of.

There are also changes to the Human Rights and Equal Opportunity Commission Act 1986 and other acts. The bill proposes to amend that act to formally change the name of the Human Rights and Equal Opportunity Commission to the Australian Human Rights Commission—something which is also, I think, important. Earlier this year, the commission changed its corporate identity, and that was really done to assist in ensuring that all Australians know that Australia actually has an independent national institution—that we are not somehow excluded from this, and that the name reflects what the institution actually does. We have also changed the period in which a complaint to the Federal Court or Federal Magistrates Court can be brought forward—it has been more than doubled from 28 days to 60 days. There are also a number of other amendments to improve the efficiency and effectiveness of the commission’s complaints-handling process. Not only do you need to do everything you can to make things fairer by removing the barriers of discrimination but you also need to make sure that, when problems do arise, complaints-handling processes are efficient and do not create further problems. You also need to ensure that people feel that there is some transparency and accountability and that there is a resource for them to access. It is our responsibility to make sure that those things operate in an efficient and proper manner.

In summing up, I would like to congratulate the minister for his work in this area. I know he is a passionate believer in improvements in these areas. It is very important that we make these sorts of changes in the Disability Discrimination Act, the Age Discrimination Act and the Human Rights
and Equal Opportunity Commission Act, and I commend the work that he has done. I fully support this bill and commend it to the House.

Debate interrupted.

ADJOURNMENT

The DEPUTY SPEAKER (Ms AE Burke)—Order! It being 7.30 pm, I propose the question:

That the House do now adjourn.

Ryan Electorate: Meiers Road

Mr JOHNSON (Ryan) (7.30 pm)—Today in the national parliament I want to go in and bat for the residents of Indooroopilly, particularly the residents of Meiers Road, in the Ryan electorate—the beautiful part of the western suburbs that I have the great honour of representing here in the Australian parliament. I want to go in and bat for them because it has come to my attention—and to their attention—that the Rudd Labor government has put on the market some 7.2 hectares of land currently has the CSIRO on it.

The CSIRO, of course, is one of our premier institutions. It has enormous regard and respect, and its reputation is second to none. It is indeed a world pioneer in all that it does. It has come to my attention that the CSIRO is going to be relocated, and in its place, I suspect, is going to be a residential development of significant impact on the residents of Meiers Road and the residents of the greater Indooroopilly area. If this 7.2 hectares of prime riverside land goes on the market and a developer purchases it for a significant sum of money, the local area will be significantly impacted by heavy traffic. How will that occur? It will occur because the developer will clearly want to make a profit, and we all suspect that his—$60 million, $70 million, $80 million—purchase price for this prime, beautiful riverside land will have to sustain high-density residential construction. That will mean there will be a lot of people coming to live in this area.

I am certainly not one to put my hand up as being antidevelopment; indeed, I am one who believes in infrastructure, investment, development and creating opportunities for families to live in affordable homes. But, consistent with the Rudd Labor government’s policies on affordable homes, it seems that the government is going to require any developer, as part of the development process, to meet the policy of catering for affordable homes. Quite frankly, this is ill thought through and ill considered. This is policy on the run, because 7.2 hectares of riverside land should not equate to having thousands of new residents in Indooroopilly. This is a beautiful part of the western suburbs. The residential homes around it are not consistent with having, all of a sudden, on the opposite side of Meiers Road, hundreds of new homes and apartments—if not thousands of homes—in the form of high-density, sardine-can living. I know that the people of Meiers Road and the people of Indooroopilly will be fighting this tooth and nail and fighting it to the end.

The state member, who has been critical of me, really should get out of bed a bit earlier. He should brief himself on what the local issues are. I think he is a bit miffed that it was not he who alerted the local community about this. Given that he is a state MP, he really should have. Mr Lee, who was a member of the Beattie-Bligh Labor government, has done the wrong thing by them and turned himself into a Green. I think his credentials are absolutely shattered at the moment in the local community.

To all the residents of Meiers Road: let me say that I will be standing shoulder to shoulder with you and I will represent your deep
concerns. The number of emails and phone calls I have received already is warning enough to the Rudd Labor government that the people of Meiers Road, the people of Indooroopilly, will not take this lying down. Meiers Road and Indooroopilly Road will become a second Moggill Road or a second Coronation Drive—and anybody who knows Brisbane knows that Moggill Road and Coronation Drive at the moment are one giant car park. They can no longer take thousands of additional vehicles. This is suburban Brisbane; it is not a place for sardine-can living, which would be the consequence of this 7.2 hectares becoming high-density living. (Time expired)

Woodford Folk Festival

Mr SULLIVAN (Longman) (7.35 pm)—The Woodford Folk Festival is, without argument, the largest folk festival in the Southern Hemisphere. From humble beginnings at the Maleny showgrounds in 1987, the festival has truly achieved the goal the Queensland Folk Federation set itself—to be a world-class folk festival. Now it is acknowledged around the world as such.

Each year, from 27 December to 1 January, over 1,800 Australian performers and a handful of overseas performers entertain more than 120,000 festival patrons in 400 concert events in around 25 venues. This is not simply a folk music event or, for that matter, a music event. While there is a diverse range of music on offer for patrons, this festival is much more than that. With a program of concerts, presentations and workshops that include stand-up comedy, poetry, dance, visual art, wellness, circus, vaudeville, film, discussion, environmental presentations and performance art, this is an event that truly has something for everyone.

In 1994, the then Maleny Folk Festival had outgrown its original home at the Maleny showgrounds, and the Queensland Folk Federation purchased a property at Woodford in which to continue to produce the festival and, in recent years, a new event, The Dreaming, a presentation of Indigenous culture. Several thousand Woodford Folk Festival tickets are sold each year before the program is released. The festival community is a community that people want to be a part of. While the media concentrate on exotic-looking festival patrons for their news images, the fact is that, year after year, patron surveys reveal that 40 per cent of festival goers are professional people—lawyers, teachers, accountants, public servants and the like.

Like all events of this type, the Woodford Folk Festival can be adversely affected by weather, whether it be excessive rain or excessive heat. Excessive rain during the 2007-08 festival manifested itself in a reduction in presale tickets for the 2008-09 festival. Unfavourable weather last Christmas could well have spelled the end of the festival. As it was, almost perfect festival weather helped boost the daily box office takings to the point where the 2009-10 festival is assured and is already in the planning.

The demand for camping spaces at the festival could best be described by saying that, for the six days of the festival, the ‘permanent’ population of the site exceeds that of Nambour. Exacerbating the weather-dependent nature of the festival’s income is the cost that has to be borne by the Queensland Folk Federation, a community group, in providing the necessary infrastructure and services for that number of people. Services include the full extent of services provided in any community—water, electric power, sewerage, rubbish collection, police, fire protection, ambulance and medical services and a supermarket. The infrastructure necessary to provide many of those services is particularly expensive, as I know from having that responsibility between 1998 and 2006. The
constant need to expand the sewer system, the electric power distribution network and the water treatment, storage and distribution network and to increase the number of amenity blocks, much of it to meet public health requirements, is a serious financial stress for the organisation.

The infrastructure shortcomings of the site are a major factor in preventing further events from being held on the site. In an ideal world, much of the property’s underground water and sewerage infrastructure would be replaced by larger capacity pipes to cater for the larger volumes produced and the overhead low-voltage power distribution network would be removed and placed underground. There needs to be a substantial injection of money for infrastructure into the property, an injection that, in my view, the Queensland Folk Federation cannot manage alone, given its dependence on the weather.

Were the property an arts centre in the traditional sense, controlled by government at some level rather than by a community group, public funding for the edifice would be certain. Were the Woodford Folk Festival an event owned by government at some level, public funding would no doubt flow to it at the obscene rate that it does towards less successful events that are the brainchildren of arts bureaucrats. Over the years, some infrastructure funding has been received from both the federal government and the Queensland state government, but not at a meaningful level. Tonight I indicate that I will be seeking federal government leadership for a program that would involve federal, state and local governments in the provision of funding for a comprehensive infrastructure program for the Woodford Folk Festival site.

Responsibility

Mr SIMPKINS (Cowan) (7.39 pm)—

Back home in Cowan I speak a lot about personal responsibility and about being the best person that you can be. I speak a lot about confronting one’s own problems by asking the questions: what part did I play in this adversity? What decisions did I make that may have caused this problem or made the circumstances worse? This is a lesson that I try to get local teachers to impart to young people within the electorate of Cowan.

These are important questions to ask so that you can move on and improve yourself. The last thing we should be doing is focusing narrowly on the part others may have played in our problems. After all, we are not in control of others, only ourselves. This is a key to being positive rather than negative. I believe that, if you concentrate on how you are a victim of bad luck, how there is a conspiracy against you or how society is against you, it is nothing more than an excuse for not trying and only accepting easy options.

To help make the point, I will mention my time in the sport of rowing. At high school, before I made the first eight, we used to train three times a week for the two terms of the rowing season. One of those days was regatta or competition day, and there was very little cross-training, such as running or weight training. On each regatta day we would come last or second last. We used to concentrate on the age-old error of wearing our lucky socks, confident that it would be all right on the day. Relying on luck is like relying on superstition: there is no basis for it. If we said we were unlucky or that the other crews were bigger than us, I now acknowledge that we were in fact looking for excuses for our unwillingness to train harder and longer. We were seeking to shift the blame for our poor performances. In other words, it was not our mistake or lack of effort; it was our opponents having an unfair advantage or another excuse to hide behind a poor attitude.
The point therefore is that, if you try hard and make the effort, you can succeed. This was a lesson I learnt when I was 16 years old. Achievement and success come through hard work and not luck. I sometimes wonder how many people have learnt that lesson in life. Every time a person with limited money buys a lotto ticket or goes to a casino, I suspect that they have surrendered their hope to luck or superstition. They do not trust in their own hard work, their own commitment, but rather they are saying, ‘I’m no longer in control of my destiny.’ They are saying that they surrender control of their future to a game of chance. This is a tragedy made worse when children grow up in households where parents provide this sort of example.

This brings me to my main point. As adults, we are in leadership positions. Everything we do or say is an example to our children and those around us of how to live our lives. Some months ago I met a 12-year-old girl whilst breaking up a fight between young Somali and Maori people. After 15 years in the Army, I had still not heard such swearing as I heard from that girl. Whilst at a primary school graduation in December I heard that the same girl’s mother had taken the one-off payments for her children and had gone back to New Zealand for a holiday. I worry for the future of that girl, given the leadership example she has in her life.

Similarly, I had a conversation with the mother of a young Indigenous woman who had been arrested for breaking and entering and making a threat to kill as part of a feud. The mother had encouraged her daughter to go to a house to confront another young woman. The mother believed that the aggression and violence were appropriate. With regard to the fight, she even said to the local police sergeant, ‘This is the way we sort things out in our culture.’ I do not believe that that is true. In the end, this mother wanted to make a complaint about the police. Clearly, she saw the problem as being the reaction of the police. I worry about this sort of leadership, when children see adults blaming others for their problems. They blame the police or society, instead of looking in the mirror and being critical of their own actions.

Each of us is in control of our destiny and, particularly as parents, we exercise great control over our children’s futures. Our children’s attitudes and commitment to hard work and education are being developed by what they see their parents do from the time they are toddlers. Parents who put themselves first, promote aggressive behaviour or put their faith in luck or superstition provide nothing more than bad examples that undermine their children’s futures and the future of our country. If you are looking for who is at fault in times of personal adversity then you should start by looking in the mirror, not by looking for someone to blame. This is the way we can be the best people we can be. We should encourage those around us to take responsibility for themselves and be the very best people that they can be.

Dr Chris Towie

Ms VAMVAKINOU (Calwell) (7.44 pm)—It is with great sadness that I rise tonight to pay tribute to Dr Chris Towie, one of the many Victorians who perished in the ‘Black Saturday’ fires. Dr Chris Towie worked for some years as a general practitioner in Broadmeadows, which is in my electorate. I first met Chris a few years ago when I read a story in my local paper about his concern at the escalation of people taking the drug ice. Chris was very concerned about what he thought was a lack of adequate services for drug addicts. On this occasion, as on many other occasions, he was voicing his frustration with a system he believed was failing people. Chris also voiced his concerns at the other broader health issues affecting...
Broadmeadows residents, including access to mental health services, more affordable health care and the need to review the allocation of provider numbers to ensure there were enough local doctors to service the area. That was very much who Dr Chris Towie was—a man passionate about his profession with a strong sense of social justice; an activist; and a known animal lover.

I remember going down to the Widford Street clinic to meet with Chris because, as the local member, I was eager to follow up on his concerns. It is a very busy clinic in Olsen Place, almost in the heart of Broadmeadows—the rough end of the Melbourne stick, as he called it. As I sat in the waiting room on that day it became obvious to me that Chris was a very busy doctor. Eventually he burst into the waiting room—he cut a very unconventional figure for a doctor. They say first impressions count and in this case it was absolutely true. This was no ordinary doctor—if one can say that about doctors, because many of them are quite extraordinary people.

Chris and I had a very long chat about a number of the issues that bothered him. I took from that meeting a sense that the life of a GP is stressful enough, but a GP who was also an active campaigner for social justice and a social critic would be under enormous pressure in what is naturally a difficult profession. Chris chose to work in areas of disadvantage because he felt that that was where he could make the best contribution and add the most value—and those communities need that type of champion. He could easily have chosen to practice in the leafier, more affluent parts of town, but he was one of those doctors who are on a mission to make a difference.

I am sure that throughout his career Chris, sometimes the lone and at times controversial advocate of community issues, ruffled many feathers in his quest to raise awareness. But that is who he was and, if ruffling feathers made people sit up and pay attention or spurred them into action, that is exactly what he wanted to achieve. If anything sums up his blunt way of telling it as it is, it is the well-publicised case some 3 years ago of Mrs Aziza Agha, a Syrian woman with known heart problems who was directed by the Department of Immigration and Multicultural Affairs to undertake a medical assessment to determine if she was well enough to be deported. The department ignored Dr Towie’s advice that she was not well enough to take the 30-minute trip into the city to attend the appointment. Sadly, Mrs Agha died of a heart attack two days later. When completing the death certificate, Dr Towie wrote that the cause of death was ‘harassment’ by immigration officials. That is who Chris was.

For much of his life Chris battled hearing problems, which he overcame in recent years with the help of advanced technology in the form of graphic equalisers that he wore in his ears. I am certain that his deafness helped to shape his passion for standing up for the disadvantaged, for asking the questions that others may think but not have the courage to ask and for reminding officials that they are there to serve their communities. Unfortunately, the Victorian fires have now silenced this significant human being. My community mourns the passing of this extraordinary man. He will be a loss to his family, his friends, his profession and the community who came to know and respect him.

Mayo Electorate: Bushfires

Mr BRIGGS (Mayo) (7.48 pm)—I congratulate the member for Calwell for her contribution. I too rise to speak about the events surrounding ‘Black Saturday’ in Victoria—not from a personal note but to reflect on some lessons that I think are important to
take away from those tragic events on Saturday. We have lost so many good Australians, such as the one that the member just spoke of, in the last few days. We are all in shock and horrified by these events. It will take us some time as a community to come to terms with just exactly what has occurred. I have been very proud of how we have handled this in the parliament in the last few days—with the bipartisan nature of the response and the speeches delivered by the leadership group, members in the Main Committee and those affected in this place. Of course, our heart goes out to the member for McEwen, who tonight still battles with these fires as we stand here.

The fires bring to our attention issues that we must deal with in a proper way in the weeks and months ahead. It is very pleasing that the Victorian government has decided to announce a Royal Commission, and I think that we also need to look into an inquiry at the federal level as well. I speak as the member whose electorate has the greatest fire risk in Adelaide—the Adelaide Hills. Tragedy, of course, struck the Adelaide Hills in the past on Ash Wednesday. If truth be told, there has not been a significant fire in the Adelaide Hills since Ash Wednesday, which many will remember predates the former member for Mayo, so there is 26 years of built-up load there.

Saturday was a worrying day, and I acknowledge the efforts of the state government, which it is very rare for me to do. But on Saturday I think they had every police car they could find driving around the roads in the Adelaide Hills. They also have a policy of harassing—I guess that is the best word—known firebugs and making sure that they know that they are being watched. Thankfully we survived Saturday. We did not have a fire. That was through good luck. We did not have a thunderstorm and, of course, lightning is the other major contributor to starting bushfires.

What the Victorian fires bring to our attention is that the population in the Adelaide Hills has grown significantly since Ash Wednesday. The Deputy Leader of the Liberal Party grew up in the Adelaide Hills. She spoke the other day of the previous fires, which were about 25 years before Ash Wednesday, when there was an even smaller population in the Adelaide Hills. But these days the Adelaide Hills is suburban Adelaide. As many of you know, many people commute from Stirling, Crafers, Aldgate, Norton Summit, Meadows, Mount Barker and all those towns throughout my electorate. They live amongst the trees, which is why they want to live up there.

I am very concerned because we are halfway through the fire season and halfway through a very dry year which has come on top of many very dry years. I am worried about the safety of the people who live in my electorate and I am particularly concerned about our warning systems. I think we need to look very urgently at how we warn people about the severity of bushfires. We tell people when cyclones—or hurricanes, in the Northern Hemisphere—are heading their way and about the severity that they have: if it is a category 4 cyclone, you know to get out of the way; if it is category 1 or 2 then you know that it is probably something that you can get through. I think we need to look at that very urgently. We knew on Saturday that it was going to be 41, 42 or 43 degrees with high winds—which are the worst conditions, of course. We are going to have to look at whether we tell people earlier and with more force that they need to think about how they are going to handle a situation like that.

We need to do this very quickly. I know it is a difficult time and we have to be very careful and considerate of what the people in
Victoria are going through. However, we have to look at the other potential threats. My colleague at the table in front of me, the member for La Trobe, has a similar electorate with similar issues, and it is incumbent on us in this place that we make these considerations. We could look at bunkers in places that are in fire zones, but in the very short term we must look at the early warning systems, if for nothing else than to protect more lives in the future.

Werriwa Electorate: Southern Sydney Freight Line

Mr Hayes (Werriwa) (7.53 pm)—I rise tonight to speak about and support the concerns of the Liverpool City Council and local residents who reside along the rail corridor between Casula and Liverpool, who currently experience excessive rail noise and who are concerned about the noise and the environmental impacts related to the Southern Sydney Freight Line. A major bottleneck in the rail freight network currently exists in the south-west of Sydney, where freight trains share existing rail lines with the Sydney metropolitan passenger services operated by RailCorp. To alleviate this bottleneck, the ARTC has begun the construction of the Southern Sydney Freight Line, which will provide a dedicated freight line for a distance of 36 kilometres between Macarthur and Sefton. This project is valued at about $300 million. The Southern Sydney Freight Line will provide a third track on the existing rail corridor specifically for freight services, allowing passenger and freight services to operate independently. Importantly, this project is designed to take trucks off our roads and to free up the passenger rail services. This has the potential to reduce future road infrastructure costs and to have environmental and road safety benefits for communities along these highways. Significantly, this project will generate jobs for the outer metropolitan areas of Sydney and will be of great benefit to the New South Wales economy in general.

This freight line is an essential piece of infrastructure; however, we must find the balance between providing this essential service to Sydney and the greater Sydney area and protecting the quality of life and wellbeing of local residents. I know from the many letters, emails and phone calls I have received from concerned residents, and from the emotional meetings that have been organised, that, whilst residents appreciate the urgent need for this project—in fact, most believe it is necessary transport progress—they are concerned about the existing noise levels recorded independently of the ARTC. It is not really a question of what the future noise is going to be when the existing noise is already rated above what are regarded as acceptable noise levels. They do not accept that they should simply put up with noise levels that will only be exacerbated by the freight line. They expect and demand the construction of sound barriers alongside this rail easement. It is simply about finding the appropriate balance between providing an essential service to the south-west of Sydney and protecting the quality of life and wellbeing of local residents.

I want to put on the record tonight that this project should not be done in a way that is at the expense of the residents of Casula. As a condition of approval, the ARTC has been required to prepare an operational noise and vibration management plan that would allow noise mitigation measures to be assessed against noise objectives. After completing these tests the ARTC is confident the freight line will not exceed existing noise levels at Casula. But, given that the existing noise levels are already excessive, I do not believe it is a question of whether the noise will get louder—it is absolutely beyond question that the noise levels will not reduce. The real concern is the overall noise mix
generated by the rail now and into the future. It is obviously too loud now, without our worrying about what will occur in the future.

Whilst the ARTC does not have the legal obligation, as part of its current project, to address the existing noise levels, there is, no doubt, an opportunity for both the ARTC and Railcorp to examine the mitigation of all rail noise as part of this project. For this reason I have recently written to both the New South Wales Minister for Transport and Roads and the New South Wales Minister for Planning and Environment to request that they examine the mitigation of all rail noise as part of this project and the approval processes with the ARTC.

I intend to continue working with the local residents, including Leah Cain and Michael Russell and other residents of the Casula community, to persuade both the ARTC and the New South Wales government that noise abatement measures along this corridor actually make good sense. I say again that I believe this project will deliver significant benefits to our local community and will alleviate the bottleneck in the rail freight network that currently exists in the southwest of Sydney. However, it is most important that the quality of life and wellbeing of the local residents are not adversely impacted. (Time expired)

La Trobe Electorate: Tourism

Mr WOOD (La Trobe) (7.58 pm)—I want to inform the House of one of the great concerns in my electorate at the moment, and that is the way the tourism industry is suffering significantly and financially in the Dandenong Ranges. First of all, I would like to thank Dandenong Ranges Tourism and its president, Ron Hurley, and make a special mention of Mike Axel. They have been great ambassadors for tourism in the hills. With all their members I congratulate them for their hard work and for putting so much time into making tourism something very special for people who visit the Dandenong Ranges. I also must thank the vast number of volunteers in the Upper Ferntree Gully tourist information centre, who are doing an amazing job. Last year, I think, they had over 20,000 visitors. To give you an idea of the way tourism has suffered, from August 2007 to August 2008 tourism was up 20 per cent. Lately it has diminished. We drastically need urgent action to be taken.

The SPEAKER—Order! It being 8 pm, the debate is interrupted.

House adjourned at 8.00 pm

NOTICES

The following notices were given:

Mr Swan to present a Bill for an Act to provide financial assistance to the States, the Australian Capital Territory and the Northern Territory, and for related purposes. (Federal Financial Relations Bill 2009)

Mr Swan to present a Bill for an Act to deal with consequential and transitional matters arising from the enactment of the Federal Financial Relations Act 2009, and for other purposes.

Mr Albanese to present a Bill for an Act to amend the Civil Aviation Act 1988, and for related purposes.

Mr Albanese to present a Bill for an Act to amend the Transport Safety Investigation Act 2003, and for related purposes.

Mr Martin Ferguson to present a Bill for an Act to amend the law relating to the Australian energy market, and for related purposes.

Mr Shorten to present a Bill for an Act to amend the law relating to social security and veterans affairs, and for related purposes.
The DEPUTY SPEAKER (Ms AE Burke) took the chair at 9.30 am.

CONSTITUENCY STATEMENTS

SMS Subscription Schemes

Mr CIOBO (Moncrieff) (9.30 am)—I rise this morning to talk about a scam that has been operating and entrapping a large number of my constituents. Constituents have contacted me on numerous occasions to raise their concerns about what they refer to as a telecommunications scam. Essentially, the way the system operates is that members receive SMS messages on their mobile telephones. These SMS messages are actually charged to their accounts in the order of some $2.50 per SMS and up to some $6 or $7 per SMS. My constituents suddenly find that after a period of as little as a month, for example, they can receive up to hundreds of dollars of charges on their mobile telephone accounts—charges that they have not authorised, that they are unaware of and that of course put a great financial burden on them when they have to pay them.

Constituents who have contacted me, such as Mr Ian Roberts and Mr Kevin Glasheen, are very concerned that there may be a very large number of other people in my electorate, and indeed across Australia, who are caught up in this telecommunications scam. They have been pressuring me to use whatever influence I can with the Minister for Broadband, Communications and the Digital Economy to ensure that these SMS subscription schemes are made illegal unless there is express written consent from those who are allegedly subscribing to these services.

What is particularly concerning is that a lot of these organisations from which people receive one SMS message automatically enrol those people on the SMS scheme without their consent. A company by the name of Zengo uses the ‘5th Finger’ company—www.5thfinger.com.au—as the gateway to solicit people into competitions, according to one of my constituents, and then charges subscribers $2.50 for every message that is sent to the subscriber. Unfortunately, there is no way of contacting this company so it requires a great deal of time and effort on the part of my constituents who are attempting to unsubscribe from the service, which they never requested to be subscribed to in the first place.

This is clearly a scam. This is clearly costing my constituents—and indeed, no doubt, many Australians—potentially hundreds of dollars on their monthly phone bills. More concerning and distressing is the fact that my constituents have to go to so much effort to try to unsubscribe from a service that they never wanted to be part of in the first place. I encourage the government to do whatever it can, as swiftly as it can, to ensure that these kinds of so-called subscription services are deemed to be illegal unless there is express, written consent from a subscriber that indicates they would like to be part of this potentially very expensive exercise. I encourage the minister for communications to investigate this matter very promptly, to ensure that people are no longer caught up in such schemes—and, more importantly, I urge the companies that sit behind this scam to make sure that they respond in a willing and appropriate way.
Apology to Australia’s Indigenous Peoples: First Anniversary

**Mr MURPHY** (Lowe—Parliamentary Secretary to the Minister for Trade) (9.33 am)—Firstly, I would like to recognise that this parliament meets on the traditional lands of the Ngunawal people. Today I rise to speak about the anniversary of the apology. It will be 12 months to the day on Friday, 13 February 2009 since the Prime Minister of Australia, the Hon. Kevin Rudd, said sorry to the stolen generations. It is hard to believe that 12 months has passed so quickly since that historic day, when Indigenous and non-Indigenous Australians gathered together to witness the delivery of one word: sorry. It was truly a memorable day. The Prime Minister moved the motion of apology to Australia’s Indigenous peoples and it was unanimously supported. It was a day to reflect on our nation’s history and the mistreatment and injustices visited on our Indigenous community, one of the oldest continuing cultures in the world. As a nation we apologised for the pain and the suffering inflicted on many families who were torn apart by government policy. In my electorate of Lowe, Burwood Public School watched on television the Prime Minister’s motion of apology on Sorry Day. In response, year 2 decided to write their own letters to the stolen generations. I would like to share a few of these with other members of parliament today.

Alfred Zhang wrote:

Dear Aboriginal People,

I am sorry about the Stolen Generations taken from their mums and dads. I’m glad Kevin Rudd said sorry.

Jenny Wei wrote:

Dear Aboriginal People,

I feel so sorry for you because you lost your whole family when you were small. I hope one day you can find your family again.

Scott McVey wrote:

Dear Aboriginal People,

I am sorry that the past Government took the children. I am happy because we will be friends again.

These are the words of the future generation, and they are in the spirit of unification and friendship. I congratulate the students of Burwood Public School on their efforts. Next month I look forward to attending the Burwood Public School Harmony Day assembly to take part in a presentation of the letters, which were published by the Department of Families, Housing, Community Services and Indigenous Affairs to mark the anniversary of Sorry Day. A copy of the booklet will be presented to a member of the local Aboriginal community. It is fitting that the presentation will take place the day before Harmony Day. Harmony Day celebrates the cohesive and inclusive nature of our nation and promotes the benefits of our cultural diversity. The day promotes respect, inclusiveness and a sense of belonging. In the words of the Prime Minister, I trust we can move toward:

A future based on mutual respect, mutual resolve and mutual responsibility.

A future where all Australians, whatever their origins, are truly equal partners, with equal opportunities and with an equal stake in shaping the next chapter in the history of this great country, Australia.

I could not agree more. Well done to Burwood Public School.
Queensland Floods: Australian Defence Force

Mr LINDSAY (Herbert) (9.37 am)—Once again the men and women of the Australian Defence Force have come to the aid and assistance of those affected by disaster. In this particular instance, I refer to the men and women from the 3rd Brigade in Townsville. They have come to the aid of the residents of Ingham, who have been badly affected by the floods, with the flood rising and then falling. I was in Ingham yesterday and I sought a range of views, and I detected something that we could do better through the emergency management processes and their relationship to Defence. There are very clear and settled guidelines on how emergency management agencies contact Defence and how Defence should respond. But I discovered there is no mechanism in the case of a flood—we can know up to two days before when there is going to be a major flood—where we can say to Defence: ‘We want to warn you that you are going to be needed. We want you to go on standby; we want you to pre-position assets; we want you to call up people because there is going to be a major flood.’ There is no provision to do that, so Defence is always reactive rather than proactive.

I do not think there is anyone who would object to the concept that Defence should be given the ability to be proactive. They do such a great job when they are on the ground and they have many of the assets that others in the community do not have that can assist in times of natural disaster. They have some terrific assets in helicopters and Caribou aircraft, short field landing aircraft, and so on. Today, I have written to the Minister for Defence and indicated to him what I have found on my visit to Ingham and how we might fix it. I know that Emergency Management Australia and Emergency Management Queensland would be most appreciative if the Minister for Defence could direct Defence to sort out what I think is a shortcoming in the arrangements when there is a natural disaster. I think there will be goodwill on all sides. It is not going to cost anything; it is just a way of better planning for when these things happen.

Yesterday the people of Ingham had a spring in their step, even though they have suffered dreadful flooding. We are hoping that the cane crop will not be affected. We will not know for another four weeks or so whether it has lost its sugar content or not, but we are hoping that it will not be affected. Certainly, like all Australians, the people of Ingham will bounce back. They will get on with their lives and we will, in fact, have a better outcome.

Kingston Electorate: Sportspeople

Ms RISHWORTH (Kingston) (9.39 am)—Today I would just like to pay tribute to three exceptional sportspeople in my electorate of Kingston. I want to mention firstly Alice Whiley, who is a lifesaver at Moana Surf Life Saving Club. She is off to the national titles this year in March to compete in the areas that she regularly competes in, which are the iron person, the swim and the board. Alice has been competing since she was under seven years old and has been selected from her club to go and compete in the national titles. I was able to ring Alice the other day to congratulate her on being one of the local sporting champions in my electorate who have received a grant from the federal government to go towards the cost of competing. Competing in the sport of your choice can often be costly, especially if you are going to state or national championships. I am very pleased that I was able to ring Alice and let her know that the federal government was able to assist her in some of those costs to enable her to compete at a national level.
I was also able to ring Shani Copley. She is also a surf lifesaver and is going to be competing in the national championships. I have not been able to speak to Shani, who is 14. She was at school when I rang, but I did speak with her mum, who was incredibly proud. She said that Shani is a very passionate person when it comes to surf lifesaving. She is interested not only in the sporting side but also in the helicopter rescues and the paramedic side and wants to train as a paramedic because of her interest in surf lifesaving. She has also won state champion lifesaver this year and she has just been awarded that. Her mum said that she was very much looking forward to the money that the federal government could provide to buy a new ski paddle. That will be very important for her to be able to compete in the national championships. She is at the South Port Surf Life Saving Club.

I was also able to ring Craig Nicoll, who was granted $500 as part of the local sporting heroes. He is a swimmer and he is off to the national age championships. Ironically, his coach is the same coach who coached me in swimming, although I do not think I was quite as talented as Craig is. He has been swimming for only four years but in that time he has come along in leaps and bounds. I would like to congratulate everyone. There were a lot of nominees for this grant program who were all very worthy. Unfortunately, there can only be a few successful ones and they are the three people who were successful.

Ms LEY (Farrer) (9.42 am)—May I offer on behalf of the people of Farrer our sincere sympathy and condolences to those who have lost loved ones, homes, livelihoods and property in the Victorian bushfires. The electorate of Farrer, just north of the Murray River, looked south, struck almost dumb with horror, as this tragedy took shape. On the weekend Albury, my home town, was shrouded in thick smoke from the Beechworth fire, and the small community of Brocklesby, where I was celebrating their 100th year of the recreation reserve with them, went about those celebrations with a grim eye southwards and a nervousness that their farms, fodder storages and homes were left unattended, if only for a couple of hours. The response to any fire had already been put in place. Country people have grown up with fires. The Rural Fire Service in New South Wales and the CFA in Victoria are a vital part of the community of every small town. Some do not have a post office or a shop but they nevertheless have a fire shed and they meet and drill regularly to familiarise themselves with new equipment and techniques.

In Albury the response to the tragedy has been magnificent. I want to name just a few people who have worked hard over the last couple of days: Deb from Your Hearts Desire and Chris Thomas are coordinating packs of shampoo, conditioner, sunscreen, face towels, nappies et cetera. Their shops are filled to overflowing. Barry Membrey, a local bank manager, is collecting fodder from local stock agents. Farmers have been incredibly generous, particularly given that they are in drought and short of funds themselves. That will, of course, link in with the VFF coordinated relief effort in Victoria. Local schools are collecting all sorts of things and the Red Cross was overwhelmed with donations on Monday, as have been other local charities.

For us it is all very close to home. People are permanently watching the CFA website to make sure that friends and family are okay. Albury is a local point of business for those from Beechworth and other parts of north-east Victoria. Many children could not get into town to go to school because buses were cancelled or roads were blocked. Many people are staying
with relatives and many have their cars and bags packed. A local company took a truckload of
donated bottled water up to the CFA Dederang for the firefighters. Text messages are going
round telling everyone to ‘buy at Coles on Friday’ to support the fire victims.

Now is not the time for recrimination. The focus must remain on the emergency that con-
tinues. Even in 2009, with all the technology available to us, nature holds the upper hand. We
will learn from this what we can do to improve preparedness. We need to hear from those who
have experienced this fire at the front line, not necessarily from those in remote offices. These
fires have made a beautiful part of Australia a battle zone. We admire and thank those who
still fight these fires and we grieve very deeply for those who have lost loved ones.

Education

Ms HALL (Shortland) (9.45 am)—I wish to raise in the House today issues relating to
Building the Education Revolution and how wonderful it will be for the electorate that I repre-
sent in this parliament. The refurbishment package will allow for small refurbishments, with
tight time frames. The states will have to be quite flexible with schools, and they will have to
use local contractors and tradespeople. We hope that those programs will start within six to
eight weeks.

The benefit to schools in the Shortland electorate will be enormous. For a very long period
of time they have had issues related to maintenance and the need for halls and libraries, but
there was not a vehicle to provide the schools with the facilities or maintenance that they
needed. The previous government’s Investing in Our Schools Program provided some infra-
structure for schools, and those schools have really appreciated that. Unfortunately, it was a
very political program. I was told that I was not allowed to go to official openings or to offi-
cially open some of the projects that took place in my electorate, despite the fact that I had
been very supportive and had helped my schools to work through their applications.

But this program is a unique opportunity that will provide primary schools with up to $3
million, and I have a number of schools in my electorate which will be eligible for that
amount of money. The minimum that will go to any school in the Shortland electorate is
$850,000. For secondary schools, this program will allow science and language centres to be
built, preparing for the 21st century the students who attend those schools.

I have in my hand a priorities list that the New South Wales Department of Education and
Training put together in 2007. I also have talked to the schools within my electorate. Whilst
this priority list may link into some of the work that schools need, I know that as a local
member I will be working really closely with my schools to make sure that the kind of work
that happens in local schools is work that they wish to happen, so that the students of those
schools can benefit from this program to the absolute maximum.

Victorian Bushfires

Dr STONE (Murray) (9.48 am)—I want to begin by expressing the concerns of my elec-
torate for all those caught up in the Victorian fires, and for those still fighting them. I am
proud of the contribution of our Murray electorate volunteers and professionals in helping our
neighbours and donating support. I also want to acknowledge my sister Vicki and her family
at Limestone, near Yea. They have been under fire attack since the weekend, and strong winds
today will make it particularly dangerous for them and their neighbours.
It was a miracle that the biggest red gum forest in the world, the great Barmah-Millewa Forest, did not go up in flames on those terrible days last weekend. The great Barmah-Millewa Forest, which is strung along the Murray River, contains RAMSAR listed wetlands and is laced with small streams and grassy plains. The forest is an international natural treasure.

To preserve the forest, the coalition allocated 500 gigalitres of environmental flow to be let into the forest through regulators at the natural times of high Murray River flow in the spring. The timing of the release of this water is critical to the successful breeding events of birds and fish and the regeneration of the flora. Release of water at other times can do great damage.

The locals who love and have cared for this forest for generations and the Bangarang elders are now deeply concerned that three weeks ago, at the height of the summer’s heat, some individuals illegally tampered with the regulators, smashing the locks and flooding about 850 megalitres into the forest. This was no accident. The four regulators—the Gulf, the Big Woodcutter, the Boals Deadwood Swamp and the Pump Paddock—were opened over a weekend and continued to pour water into the forest through to the following Thursday.

This reckless criminal act has caused a water spill in the forest 30 kilometres long and five kilometres wide. Sixty square kilometres are affected. This is a black water event. The shallow water in the intense heat quickly becomes toxic, killing all. Already water birds have been attempting to breed with no hope of fledgling offspring surviving, given we are still in the height of summer and the water will be gone in less than a week. Only about 10 per cent of the birds in the major bird breeding event in 2006 survived when authorities cut the water off too soon and delivered it too late.

There is plenty of speculation about who committed this crime. Some suggest pig shooters, others suggest duck shooters and others think the DSE might have done it in an effort to create a wet firebreak, given their cold burns and action to reduce fuel loads in the forest have been so ineffectual and damaging that locals have had to release cattle into the forest to reduce the risk of fire in these tinder-dry conditions. I call on the DSE to undertake a thorough, public and transparent investigation of this illegal flooding. It is simply not good enough to keep it as their best-kept secret. We need answers and we need action.

Sister Kerry Macdermott

Mr HAYES (Werriwa) (9.51 am)—A special job requires a special person. Today I would like to talk about Sister Kerry Macdermott, who is a member of the religious community of Our Lady’s Nurses for the Poor, better known as the ‘Brown Nurses’. Sister Kerry lives at Minto and oversees a very active Aboriginal Catholic Ministry, which is run by the Diocese of Wollongong. Sister Kerry helped found the Wnga Myamly Minto Reconciliation Group in 1993; each year it organises a memorial ceremony at Cataract Dam on the site of the Appin massacre of the Dharawal people in 1816. Her efforts in establishing proper recognition of the massacre have seen the realisation of an opportunity each year for reconciliation and healing for the Indigenous as well as the European community. In 2007 Sister Kerry spent three months working in a remote Aboriginal community outside Alice Springs, tending to the needs of those people. In February 2008 she travelled to Canberra with a group of local Indigenous people to hear the historic apology from the Prime Minister, Kevin Rudd.
What makes Sister Kerry so special is her total commitment to the people who need help—in particular, the Indigenous people of south-west Sydney. Sister Kerry has upheld the order’s aim of assisting the poor in their homes and always giving them the utmost respect and love. Every day there is an example of this respect and love. Sister Kerry is fearless in her approach and certainly goes out of her way to ensure that she is respected at all levels of government. Sister Kerry has always gone about her work in a way that draws people to her. I very much recognise her strong will, which is necessary for her advocacy, but she certainly displays tenderness and empathy that make the most vulnerable, particularly children, feel wanted and secure. She is always ready to assist anyone in need, whatever the time of day or night, and her own needs are usually placed second to the needs of others.

Sister Kerry is not one to seek praise or recognition for her work, as her love for those she cares for and the desire to improve their situation are her only ambition and driving force. Her whole being is dedicated to acting for and loving the poor, and her respect for people, whatever their origin or circumstances, is her trademark. Sister Kerry is a woman to whom the community owes a great debt. She is truly a great Australian and the community of the south-west of Sydney are very much privileged to have known her. It is certainly my privilege to be associated with Sister Kerry Macdermott.

**Rifleman Stuart Nash**

Mr HAWKE (Mitchell) (9.54 am)—I rise to pay tribute today to the life of Rifleman Stuart Nash, who was killed in action in Afghanistan late last year in service with the British Army. I had the immense privilege of attending Rifleman Nash’s funeral at a thanksgiving service for his life on 14 January this year at St Matthew’s Anglican Church, Windsor. The service was also attended by the Minister for Defence, my friend and colleague the member for Greenway and the state member for Hawkesbury. Stuart Nash and his family, parents Bill and Amanda, come from my community of Glenhaven in Mitchell.

Stuart Nash was a much-loved son of William Clarke College. He completed his gold Duke of Edinburgh in 2005. He held dual citizenship but chose to serve in the British Army because there was more of a chance he would see active service. He was a member of the Rifles, a British regiment, and quickly became one of the most promising soldiers of that regiment. He was just 21 years old when killed in action and had joined the Australian Air Force Cadets when he was just 13.

The strong ethic of service Stuart held in his life was embodied throughout the service and, as the timeless and beautiful hymn the Two Fatherlands and our anthems, God Save the Queen and Advance Australia Fair, echoed through St Matthew’s Windsor church, I was reminded of the great links between Great Britain and Australia. It is a church that was built by Governor Lachlan Macquarie when Australia was part of Great Britain and it felt appropriate and exactly as Stuart, who was a dual citizen of both our countries, would have wanted and sought.

His life was the embodiment of the finest qualities in our young people: to serve others and to seek to fight for the freedom and liberty that we all enjoy. I was struck, as were we all, by the tributes of his fellow soldiers, which were a testimony to his Aussie spirit of mateship and the sense of duty that he brought to his role as a soldier. Stuart Nash was a man who put his duty to his mates, his country and the cause of freedom above himself and his family. His life
is an inspiration to others and a reminder of how much we owe to so many of our servicemen and women throughout the history of both our countries, Australia and Britain.

To Bill and Amanda Nash on behalf of all members of our Mitchell community and of our nation: we share your grief at the loss of one of our finest young men in so worthy a cause.

Brisbane Electorate: Ashgrove Sports Ground Redevelopment

Mr BEVIS (Brisbane) (9.56 am)—I am looking forward to the opportunity of attending the opening of the Ashgrove Sports Ground redevelopment next month. This is not your ordinary backyard redevelopment; this was a $2 million revamp of one of the best and largest sporting facilities and fields in the Brisbane electorate. It is home to three sporting clubs: the Valley Cricket Club, which boasts Allan Border and Matty Hayden as club members, and also the GPS Old Boys and GPS Juniors. It is a major facility and it has undergone over the course of the last 18 months or so a very major rework of the grounds.

It has also been an excellent example of the cooperation between local, state and Commonwealth governments, as the funding came from all three tiers in one of those rare examples where the system and bureaucracies worked together to deliver a fantastic outcome for all involved. And ‘all involved’ means a very large number of local sports boys and girls. There are in excess of 1,400 registered players who use those fields all year round. It is a major sporting facility with a huge participation rate and I am happy to say that my young son is amongst that group as one of Valley’s cricket players.

The Commonwealth contribution was to improve the water reticulation. Obviously water supply is a major issue in a sportsground of that kind and in South-East Queensland we appreciate now more than ever just how scarce and how valuable that water is. The new facility boasts a two-million-litre storage facility. That will save an estimated 10 million litres of water a year whilst at the same time ensuring one of the best playing fields anywhere in Brisbane.

I want to pay particular thanks to the driving force behind the project, John Moran, who was the coordinator. I also want to acknowledge a number of other people without whose support over many years the clubs would not have reached this point. I think that it is fair to say that the cricket club was the driving force behind it. There are people like Jon Stoddart, who is the chairman of the club and one of the stalwarts; and Ian Reeves. Most of the people up at the Ashgrove Sports Club do not know that Ian Reeves has a first name—everyone just calls him Reevsie—but he does actually have a first name. There is Peter Easton, who is the president of the club; Keith Dudgeon, a long-time stalwart and supporter; and Gilly Chapman, who is the records freak for the cricket team. If you live anywhere in the suburbs around Ashgrove—in Ashgrove, Bardon, Enoggera, St Johns Wood or The Gap—you know how important this field is. Next month we will all get the opportunity at the major opening to enjoy that and celebrate that success.

The DEPUTY SPEAKER (Ms AE Burke)—Order! In accordance with standing order 193 the time for constituency statements has concluded.
CONDOLENCES

Victorian Bushfire Victims

Debate resumed from 10 February, on motion by Ms Gillard:

That the House:

(1) extends its deepest sympathies to families and loved ones of those Australians killed in the weekend’s tragic bushfires in Victoria;

(2) records its deep regret at the human injury, the loss of property and the destruction of communities caused by the weekend’s fires;

(3) praises the work of emergency services, volunteers and community members in assisting friends and neighbours in this time of need; and

(4) acknowledges the profound impact on those communities affected and the role of governments and the Australian community in assisting their recovery and rebuilding.

Mr MORRISON (Cook) (10.00 am)—It is with shock and disbelief that I rise to support this condolence motion on behalf of the more than 100,000 Australians represented in my electorate of Cook and, in partnership with the member for Hughes, on behalf of the more than 250,000 Australians who live in Sydney’s Sutherland Shire. Both of us stand here today to offer, on behalf of our communities, our condolences to the communities in Victoria who have been so dreadfully devastated.

This is a tragedy of unspeakable proportions—unspeakable in its horror, unspeakable in its scale, unspeakable in its sheer human devastation. We are humbled and bewildered by the fury of this force that has scorched the lives of at least 181 Australians, some of whom left us in the blink of an eye from the face of our earth. This was the perfect firestorm. Let us pray that we and our children will never see the face of such horror again. But the terrible truth is that such a day will come again.

I am proud to say that a contingent of some 120 volunteers from our local brigades in the Sutherland Shire from both the Cook and Hughes electorates have taken and will take their place in the days ahead at the fire front in Victoria. The first team of 21 is being relieved today, another team will go down this weekend and another team will go next week, on Wednesday. I am sure, given the spirit of those in the shire, they will do whatever it takes. They will be there until the last fire is out and the last need is met. They have been based in Beechworth, in the electorate of Indi; they have already been on the ground in Dederang and Running Creek in northern Victoria and will continue to do their duty.

I think it is important to also acknowledge in this place the contribution of the husband of the member for Hughes, Bob Vale, who at his age is an extraordinary Australian. It is just so fabulous to see Bob so quickly answer that call for help, as he has done all of his life. Both he and member for Hughes are a credit to their nation.

I thank all of the volunteer teams for their service, and our thoughts are with them as they journey south and with their families, who will worry and who will be concerned in the days ahead. We pray for their safe return and their reunion with their families in the shire.

The shire is no stranger to bushfires. The circumstances of these deaths are horrific, and they will stay with the victims’ families forever. The tragic events in Victoria will call up memories for many across the country, including in my electorate and the neighbouring electorate of Hughes. For those in Victoria, these haunting memories have only just begun. In De-
December 2001 Sydney experienced a black Christmas. Those fires, which had a particular impact on southern Sydney, burned for more than three weeks. It was the longest continuous bushfire emergency in New South Wales’s history.

The fire affected the southern part of the Cook electorate, mostly the natural areas within the Royal National Park. The National Parks and Wildlife Service evacuated more than 3,000 people from the park, including holiday-makers and campers, as fires flared up very close to the main picnic and recreation areas within the park boundaries. The fire encroached on residential areas surrounding and within the national park, including the villages of Bundeena and Maianbar, which are only accessible by road—one road in, one road out. Hearing the stories yesterday, particularly from the member for McMillan, about the many Victorian communities facing the same thing, my mind immediately turned to those communities in Maianbar and Bundeena. Fortunately, there is another way out of Maianbar or Bundeena, and that is by ferry or boat. During those fires, that was the way that many residents of the suburbs were evacuated.

More than 60 per cent of the vegetation within the Royal National Park was destroyed by fire. Thankfully, there was no loss of life. However, that has not always been the case in bushfires in the shire. On Friday, 7 January 1994, a fire began in Menai that by the close of the following day would have destroyed 88 houses, taken the life of Pauline O’Neill and seriously injured Kylie and Catherine Dicken of 39 Lincoln Crescent in Jannali, in the neighbouring electorate of Hughes.

On Saturday morning the fire was still on the other side of the Woronora River, yet by the afternoon it had leapt this narrow waterway and the threat had moved on to the suburbs of Bonnet Bay, Como and Jannali. Richard Dicken, his partner Pauline and his two daughters were sitting safely in their home at this time, but just after 2 pm the fire truck that was stationed in their street was directed by the command centre to go to Jefferson Crescent in Bonnet Bay, where the need was perceived to be much greater.

That truck was manned by my brother-in-law, firefighter Gary Warren, a professional firefighter. He was a member of the brigade and served with distinction over many years before falling victim to multiple sclerosis so that he had to retire from the service. But he was there on that day, and I spoke to him this week as we recalled the memories of the discussion we had those many years ago about that day. On arrival at Jefferson Crescent in Bonnet Bay, he found the area completely deserted. It was a very eerie, silent place but the danger was looming and progressing. Together with his colleagues that day he saved many homes in the area, yet back in Lincoln Crescent things had begun to turn from bad to worse. In just over an hour one big flame, not unlike some of the flames we have been hearing about in Victoria, came straight up the road at a point across from the church, which immediately caught fire. By soon after 4 pm Richard and Pauline’s home was alight. Together with Richard’s children, Catherine and Kylie, and their two dogs Pauline got into their vehicle in their garage, with a view to leaving. When the garage door opened they saw the front of the house on fire. The utility at the top of the drive was also on fire. The bush opposite was alight, with the wind driving the flames into the house.

They shut the door and returned to the house. They used wet towels whilst sheltering in the laundry and bathroom area of their home. Richard then went looking for a way out the back of the yard, as the front door and the window next to it were now on fire. The house was now on
fire and Catherine saw a ball of fire come out of her bedroom. Richard by this time was in the pool. Everything was alight and he called his family to get to the pool, as he saw this as the way out. As the inferno reached its intensity Pauline, Catherine and Kylie jumped into the pool. The dogs never made it off the pergola. The girls survived, although they sustained burns, but Pauline had perished by the time she hit the water. When my brother-in-law Gary and his crew were finally able to get to Lincoln Crescent he saw a scene he described to me as total devastation.

The Como-Jannali fire was one of the most damaging fires that occurred in New South Wales in 1994. It was also one of the smallest fires in New South Wales, being largely confined to the riverside bushland reserves. The fire affected 476 hectares of bushland and destroyed 101 houses—ultimately more than half of all the houses lost in New South Wales during the January 1994 bushfire emergency were in that broader area—and it claimed the life of Pauline O’Neill.

I relay this story not because of its comparison to the suffering in Victoria—there is no comparison, I think, to the suffering we have seen in Victoria—but simply to make the point that the stories, identities and lives of all those who have been lost in this terrible tragedy must be remembered, just as we can remember Pauline O’Neill today in such detail. Every life lost is precious, whether there is one or there are 181. There is a human face to every one of these horrific stories, and although it is so difficult we must look at these faces. We must feel our loss, as we have been doing in this place this week, and we must honour the memory of those people. So, when the time comes and we are able, let us name these names—as today I remember Pauline—and let us mourn all these deaths. Let us tell their stories. In fact, let us have a national day of mourning, when we have counted the dead, so that we can celebrate their lives together.

The rebuilding and learning process must now be our focus. I welcome the measures announced yesterday by the Prime Minister and those announced the previous day by the Deputy Prime Minister. The coalition stand ready, as we have said, to do whatever it takes, as I am sure that is the resolve of every member in this place. There are some important issues that I believe we need to pay careful attention to, not just in the days ahead but in the weeks, months and even years ahead. They relate particularly to the issues of insurance coverage and dealing with the claims of those who will be in such distress. They will need support and advocates, people who can stand with them to work with the necessary bureaucracies. It will be difficult for them, as they do not have documents, as we heard yesterday. They need to substantiate their claims and work through all of these details. They will need people to hold their hands through that process. Let us be there to hold their hands.

I also want to join all colleagues in expressing my gratitude for the generosity of all Australians, including those in my electorate, who have reached out in this time of need. The over $30 million—and I am sure the figure is climbing—reminds us of the Australian response to the tsunami tragedy. Here on our own shores our generosity is no less.

I also wish to thank those who this day and every day are serving on the ground, including my colleagues from Victoria, providing the leadership in their communities that is so essential. In particular I wish to acknowledge the member for McEwen. I wish to thank all the members for their incredible tributes on behalf of their electorates. I do not think any of us will ever forget the contribution yesterday by the member for McMillan, who I had the great
privilege to sit beside when I first came to this place. I got to understand a fair bit more about
the member for McMillan. What we saw yesterday was 100 per cent pure member for
McMillan.

I also want to thank all those involved in the gruesome task of forensic identification. We
pay tribute to the firefighters, the volunteers and those working in charities, but I particularly
want to draw our attention to those who are going through the most gruesome of tasks. This
brings back a personal memory. My father was a fingerprint expert for the New South Wales
Police for many years in his career. Like most policemen, ambulance officers and firefighters,
he tended not to talk about his experiences. My brother serves in the ambulance service and
many of my family have served with the police, and they do not talk about it. One thing my
father really never talked about was the time in 1979 when he was one of the first on the
scene to do identification for the poor boys who were killed in the Luna Park fire. Those boys
were the same age as my brother and me. They came from the community we grew up in. It
was my father’s grim task to identify those bodies.

Similarly, some performing that gruesome task in these communities will have lived in
these communities and have known these individuals, and some will not. They will see the
charred remains of children and they will force themselves not to think of their own children
and their friends’ children. They will see things that I hope I will never see. They will be
forced to do that task. I know they will do it professionally and with the great integrity and
respect that that job deserves. Let us spare a thought for them as they work through this horri-
ble business.

I hope our words in this place provide some salve to the open wounds of our nation at this
time. I believe in something far more powerful than that: the hope and blessing of a benevo-
 lent God. Accordingly, I agree with the member for McMillan, who said: those who can pray,
pray. In that vein I wish to offer a prayer from Isaiah. If I can be indulged, this is my prayer
for them:

That the spirit of the Lord, whom the Lord has anointed, will bring good news to the afflicted; that
He will bind up the broken hearted; that He will proclaim liberty to the captives and freedom to the
prisoners; that it will become the favourable year of the Lord; that He will comfort all who mourn; that
He will grant those who mourn, giving them a garland instead of ashes, the oil of gladness instead of
mourning, the mantle of praise instead of a spirit of fainting, so they will be called oaks of righteous-
ness; that they will rebuild the ancient ruins and they will raise up the former devastations.

May God’s blessing be on all those who suffer and mourn at this time and those who seek to
comfort them.

Mrs IRWIN (Fowler) (10.14 am)—I join with all members of this House in expressing my
deepest sympathy to the families, friends and neighbours of the victims of the recent Victorian
bushfires and the flooding throughout the state of Queensland. These tragedies remind us of
the awesome power of the elements and the unforgiving nature of our environment.

As I watched the coverage of the Victorian bushfires, I could only think of the human
tragedies, with the high loss of life and the destruction of property. These small rural commu-
nities have seen devastation on a scale that is hard to imagine. Each life lost was not a
stranger but a family member, a neighbour or a friend. Their loss is felt by all Australians. At
times of such tragedy we see our nation not as a collection of individuals but as a society. We
are bound together in shared grief and compassion, and we are each reminded that our home

MAIN COMMITTEE
is not the safe haven that we may have believed it to be. Human tragedy is not something that happens only in countries outside Australia. We can be just as vulnerable to natural disasters as people of poorer nations.

While we are familiar with the response of emergency services and the sacrifices made by so many of our wonderful volunteers, who give freely of their time and on occasions risk their lives, a disaster of this size calls on all of us to give a hand. In the face of such tragedy, all Australians come together as one community to help rebuild the lives, the homes and the towns that have been destroyed. That is the Australian way. That is mateship. Whether we live in cities, where such disasters are hard to understand, or come from places that face similar challenges, we have the compassion and belief in our shared destiny to offer our help.

In my own electorate on the urban fringe of Sydney, which includes a number of small rural communities, we share the dangers of fire and flood. These ever-present risks are only too familiar to many in my electorate. The memories of the Christmas Day fires of 2001 in the areas bordering the Warragamba Dam catchment are a constant reminder that another tragedy could occur at any time. This is of great concern to all residents in those areas.

I know that in response to these tragedies the people of Fowler will dig deep to help our fellow Australians when they are in such dire need. As I have seen in recent years, ordinary people in Fowler have given generously through ethnic communities, licensed clubs and other groups to appeals following the Canberra bushfires and the Asian tsunami. Given the scale of this tragedy, even in the midst of a financial crisis I know that the people of Fowler will exceed all other appeals in their generosity. That help should, however, be seen alongside the efforts that Australian governments can make, firstly, in rebuilding the lives, the homes, the businesses and the towns that have been destroyed. At this time, when we are considering projects as part of an economic stimulus, we should give priority to projects which can help us cope with natural disasters. While we should all realise that floods and fires are part of the Australian landscape, we must give priority to measures which can greatly reduce the risk of loss of human life and property.

In my own electorate, bordering the Warragamba catchment and the Blue Mountains National Park, there are constant calls from concerned residents for fuel reduction burning in those areas. By funding essential infrastructure and planning for the development of our towns, homes and farms, we may reduce some of the risks to property. But the most important need is for resources and facilities which can bring all Australians within reach of shelter at times of disaster. This is possibly the greatest challenge facing Australia today. Unless we are determined to meet the costs of protecting human life in the event of flood and fire, we will not have truly honoured those who have lost their lives in this tragedy.

These fears have been expressed by many of my constituents. In one email I received yesterday, a resident of Silverdale pleaded:

A coordinated plan has to be put in place at a local, state and national level to ensure that everything is done to prevent the terrible loss of life and property.

Please, please start putting these things into action so that this winter sees a major change and the recommencement of controlled burns throughout Australia.

Having listened to the heartfelt speeches of the members for McMillan, Gippsland, Casey and others in this debate, I am determined to ensure that this tragedy is not repeated in the electorate of Fowler.

MAIN COMMITTEE
On behalf of the electorate of Fowler, I extend our deepest sympathy to the relatives, friends and neighbours of those Australians who have lost their lives in this tragedy. I can promise the people of the affected areas the generous support of the people of Fowler and my own determination, along with that of the whole House, to see that in the future the risk to human life in these events is hopefully eliminated.

Mr SIMPKINS (Cowan) (10.21 am)—I rise today to add my voice to those who have spoken before me on the tragedy of the bushfires that have engulfed so many homes and lives across Victoria. On behalf of the people of Cowan, my fellow residents, I begin by thanking those who have fought and still fight the fires under those conditions—the people who are dedicated to the protection of life and property. A grateful nation salutes you for your efforts, your bravery and in some cases the great and personal sacrifices you have made. I also pay tribute to those ordinary citizens who gave their lives in defence of their families and the protection of those things that they valued. I acknowledge the bravery of those who risked injury to help others. In all cases, the CFA volunteers, the SES, the police, the health services, the volunteers in supporting capacities and the Australian people are united in support of the victims in terms of offering prayers, sympathy and financial support. The condolences of the people of Cowan and me go to the families who have suffered the loss of loved ones, and we hope for the best possible recovery of the injured.

For those of us who will only see the images of this great tragedy through a television screen, we will nevertheless forever remember it. Just as with the carnage inflicted on towns during the Ash Wednesday fires, we will remember the destruction of the towns, houses and lives in Victoria. While the memory and the hurt will always be greatest for those who are there now; all Australians will carry the sadness of this tragedy with them for all their days. Most of us will never see the menacing view of smoke in the distance as it approaches. Most of us will never smell the choking smoke and see the glow of hundreds of dangerous embers flying towards us, landing on us or the roofs of our houses. We will never feel the searing heat of the flames as they burn the high eucalyptus trees across the backyard of our bush properties. Most of us will never know the feeling of certainty that our homes and all our possessions will be destroyed by bushfire. Most of us will never know the feeling of certainty that our lives will end in such conditions. Most of us will never know the uncertainty about whether our family members or friends have survived and then have to come to terms with the fact that they have not. Most of us will never know any of these feelings but, sadly, these are the feelings that were experienced by those involved in Victoria and are still being endured now.

I and most of my fellow residents in Cowan live in suburban streets. The concept of facing a bushfire at our front door is incomprehensible, yet bush does come up to the houses of Cowan. I think that the residents of suburbs like Gnangara, Banksia Grove, Carramar, Tapping, Sinagra, Ashby, Ballajura and Landsdale, who can see great expanses of bushland literally across the road, can in some way appreciate the potential threat of a bushfire. That is one reason we feel so supportive of and concerned for our Victorian family. In all cases the people of Cowan are fathers, mothers, sons, daughters and grandparents, and for that reason we can feel for families who have suffered such losses.

I said at the outset that I thank the CFA and everyone for their efforts so far and into the future until this emergency has passed. In Cowan we have two units of bushfire volunteers
based at Wanneroo. Under the overall control of the chief bushfire control officer, Mike Teraci, there are more than 80 dedicated volunteers rostered for all times of day and night. These great citizens of our community fill the ranks of the Wanneroo Bush Fire Brigade and the Wanneroo Fire Support Brigade. These are two of the most active brigades in the north of Perth and, under the chief bushfire control officer, there are three deputy chief bushfire control officers, the captain fire control officer, four lieutenants, a brigade secretary, a treasurer, an equipment officer, a brigade training officer and the volunteer firefighters and the volunteer support members. Just like the Victorian volunteer firefighters, these men and women are ready to, have in the past and will in the future put their lives on the line for our communities. They have the respect of the people in Cowan and they have our thanks for their selfless dedication and commitment to preserving lives and property. I thank them and I also thank their families for their ongoing support.

The tragedy that has claimed so many lives in Victoria is not over. The risk that more people will die remains. The strength of this country in terms of the indomitable spirit of our people has been spoken about by other speakers, and it is a fact. I would like to add to that by saying that we have such a belief in the value of human life in this country that I am proud to say we will never find the loss of even a single life acceptable. The determination of this country to do better and take the steps necessary to reduce the chances of this ever happening again will be strong—and we must take the opportunity presented.

We stand together in support of those who fight this danger. We are a grateful nation—grateful to those who put their lives on the line in recent days, last night and early this morning and who will into the future. I hope that God watches over them and that providence will see them through these desperate days.

Mr MURPHY (Lowe—Parliamentary Secretary to the Minister for Trade) (10.26 am)—This has been a week quite like no other—a week of contrasts, a week of destruction. While we watch the people of North Queensland wading through the waist-high water, raging bushfires have ravaged the southern part of the continent in Victoria. Dorothea MacKellar indeed got it right in her iconic poem *My Country* when she described Australia as:

… A land of sweeping plains,
Ofragged mountain ranges,
Ofdroughtsand flooding rains

The week has proven, better than any other in my lifetime, how mother nature can wreak the same havoc in such contradictory ways. Queenslanders have battled with one metre of rain in seven days; Victorians with prolonged drought and horrific firestorms. The colour of the horizon may vary between blue, grey and orange, but its capacity to indiscriminately destroy life and property remains the same. Three thousand homes have been affected by the northern floods. At last count, 750 homes and 181 lives had been lost to the southern firestorms. Only in wartime has the toll of dead and wounded been greater.

Death and loss of property are obvious effects in these circumstances. However, rains carry a menace long after the clouds have passed, as do flames long after their burning embers have finally been extinguished. Once these rains and flames pass North Queensland and Victoria, we will be left with the vulnerability of communities—the fragility of those without homes, families, possessions or jobs. I cannot imagine the stress of living with an image of a burnt-
out car containing a body—presumably of a friend, a loved one, a neighbour or a colleague. Nor can I imagine the stress to a community of returning home to confront ruins, retrieving what little remains and starting from scratch—like beautiful Marysville, a town I have stayed in, where so few buildings escaped the wrath of a raging fire. Every public building was destroyed there, from the police station, post office and telephone exchange to the lovely guest houses.

This example would make it difficult for many to comprehend why Australians have such love and affection for their sunburnt country or why Dorothea Mackellar would exclaim, all those years ago:

Her beauty and her terror
The wide brown land for me!

Only yesterday media descriptions of a sunburnt land included ‘scorched earth’, ‘hell’s fury’ and ‘hell on earth’. This apocalyptic and biblical imagery underscores how shocking an occasion this has been for our country. Yet it will do nothing to weaken our love of the land. Dorothea Mackellar echoed the sentiment of Australians then, as she does now, when she wrote:

Core of my heart, my country!
Land of the rainbow gold,
For flood and fire and famine
She pays us back threefold.

As with all things in our country, good will come out of bad. The ‘ordered woods and gardens’ and ‘green tangle of the brushes’ will rise from the ashes.

The mateship that embodies the Australian spirit is again proudly on display. Our firefighters, police and emergency services have fought valiantly and gone beyond the call of duty to contain the fires and attend to those who have survived. People are working together and volunteering together to protect others, sometimes at their own expense. Every act of stupidity by an arsonist attracts far greater numbers of courageous and heroic deeds.

Once again we have seen adversity bringing out the best in all Australians. The people of Sydney’s inner west, whom I represent in this place, are an extremely charitable people. I have no doubt they will be doing all they can to assist their fellow Australians, be it through donating blood, money, clothing or food. On behalf of the citizens I represent in my electorate of Lowe, I offer my heartfelt condolences to the families of those who have lost their loved ones and I also offer my deep sympathy to those whose lives have been devastated by the bushfires. Our thoughts and prayers go out to each and every one of them. They have lost so much—and in many cases everything. I commend the motion to the House.

Mr WINDSOR (New England) (10.32 am)—I would like to join this debate by extending the very heartfelt sympathies of the people of New England, and of course many other parts of Australia, in relation to the tragedy that has occurred in Victoria in recent days. Listening to the various speeches—and I do particularly compliment the member for McMillan on the picture that he painted yesterday given the real pain that he felt for his constituents and others who were affected by the fires—I think there has been a real coming together in parliament on this particular issue. I think the community will reflect on that and hopefully that will mean some degree of unity on some of the other critical issues that are out there.
At the risk of bringing politics into this debate, I note that obviously there are some very significant issues on which the nation does need some degree of unity: global climate change, the economic crisis and those things that are impacting on us. In a sense, we cannot do a lot about them just on our own but we can do a lot, as we have shown with the fires crisis, if we can find a common path that we can agree on. So hopefully out of tragedy there will be lessons learnt—particularly in relation to the fires—not only about what we should do in future but also about the way in which the political process carries on as to some of these issues where real leadership is being asked for by the broader community.

This is an opportunity to say some things that really do need to be said about how we come out of this particular tragedy. Obviously, there will be an enormous effort put in by governments of all persuasions and by the community right across Australia to make sure that the people who are impacted are looked after. That will, hopefully, assist those people. But there are some policy initiatives that really do need to be looked at for the future, and I will now take the opportunity to raise a few of the issues which relate to what has happened in recent days. Various reports and documents have been written over many decades about the consequences of wildfire and what it means, potentially, to various communities. The electorate of New England is probably one of the most diverse electorates in this parliament. It extends from the Liverpool Plains—which were originally vast expanses of very high plains grass not all that dissimilar to the prairie grass that dominated parts of the United States, so massive fires would take place there from time to time—to the hilly areas and into the gorge country towards the coast, where there have been many wildfires in the past. In my view there will be many more in the future, and they will probably be far worse than those that have occurred in the past, because management practices have changed, particularly in the last decade.

I note that in the north of Australia, in the carbon debate that is currently taking place, there are debates about the practices of the Aboriginal population and their chequerboard burning policies. Some of these things really do need to be looked at. Aborigines are not—and were not—doing that just because they think it is nice to light a fire. There are a number of issues there that we really have to have a very close look at. I think there are some lessons to be learnt from the past about where people live and how we conduct ourselves in protecting people in those areas.

There is going to be a lot of soul-searching after this event, and I think we should take advantage of some of the knowledge that is already out there. I will refer to a document that was put to the Victorian parliament about five years ago, after the Gippsland fires occurred, by the Independent state member for Gippsland East, Craig Ingram. Craig presented a document entitled East Gippsland: burned at the political stake, which I would like to table. It is not a political document; it is in fact a document in which Craig looks at many of the things that happened during those very bad fires in Gippsland, some of the reasons for those fires and, more importantly, some of the constructive ways that communities can recognise the problem and put in place some policies for the future. I raise it because, with a royal commission being touted in Victoria, documents such as the one that Craig put forward really do need to be looked at very seriously. Craig refers to the 1939 fires in Victoria, after which a royal commission was carried out. Some of the recommendations of that royal commission have only been put in place in the last 10 to 15 years. Some of those recommendations, which apply as much today as they did in 1939, have not been put in place—particularly those in relation to
some land management practices and to the responsibility of neighbours to look after land that is adjacent to other people. With the continued trend of people wanting to live in the urban-bush interface and with our great love of trees and nature, we really have to revisit some of these issues.

I am not suggesting people should not live there, but maybe in that interface area there should be a policy of prescribed burning. Some states—New South Wales, for instance—have almost retreated from that. It is seen as polluting the atmosphere if you protect land in that way in New South Wales. I was on a bushfire inquiry committee when I was in the New South Wales state parliament about 10 or 12 years ago. A lot of these issues were raised then and really very little has occurred. We have gone through the Canberra fires. There were a whole range of issues raised there, and many of them have been brushed aside. That is not to suggest that this is the fault of government. I would be the last to say that, but I think the community really has to recognise that a wildfire will occur if you do nothing to stop it. And when it does occur on an occasion like that vicious day when the Canberra fires occurred—and there were similar conditions in Victoria the other day—those sorts of conditions will make it far worse, so that you cannot stop it. I think we have got to design policy that takes the basic premise that you will not stop it unless you have put in preventative practices sometime before.

The Victorians have done a little bit of homework on prescribed burning practices in recent years. The government there has, I am told, moved towards more prescribed burning than, perhaps, the previous government had. But it is still not enough. The rolling targets that were apparently to be put in place under the arrangements in Victoria have not been picked up for future years. By 'rolling targets' I mean that, if the target is 100,000 hectares of prescribed burning in a year to protect an area—a chequerboard burn, in imitation of what the Aborigine did—and if the 100,000 hectares is not reached in a particular year because the conditions might not be there during the winter months to carry out the burn effectively, that should roll into the next year and the funding should roll as well. To my knowledge, that is not happening in a lot of the places where these massive wildfires occur.

I am sure Craig Ingram will put in a document to the royal commission. He does not blame anybody, but he makes the plea, I think, that communities really have to learn that, if you do nothing, these tragedies will occur again and again. As I said, I remember 10 or 15 years ago when I was in the state parliament and we carried out an inquiry into bushfires. There are others in this building who would remember that quite well. The Blue Mountains, west of Sydney, for instance, have highly destructive fuel loads sitting there, and nothing is really being done to prevent a similar circumstance. It will happen. It has to happen, because that is the natural way. If you do not have a chequerboard-burning landscape control policy and you allow these very large fuel loads to build up, it is just a mathematical calculation—tonnes per hectare times temperature times humidity times a few other things plus some wind and the correct circumstances, and then you get what we saw in Canberra, what we saw on Ash Wednesday, what we saw in Tasmania some years back and what we have seen again recently. Those tragic circumstances will repeat themselves. In terms of the urban-bush interface, we really have to start not to learn—because most of the documentation has been put in place before—but actually apply some of the solutions that have been identified, some as far back as 1939.
There are some other issues that I will briefly raise. I think most people recognise the speed of the fires. I have fought fires. I live on the land and I know what fires are like, but I do not know what a fire is like in that circumstance, where the trees are absolutely exploding in front of you—the intensity of that heat. The fires I have been involved in have essentially been grassfires with some trees. I would not be able to comprehend the fear that people would have faced in terms of the enormity of that particular event.

One of the things that seems to be coming through about applied policy that might make a difference in the survival of people where all else has failed is bunkers. A wombat survives in a wildfire because he goes down a hole. Many other animals do as well. In fact, I noticed on television the other day that a woman and some others crowded into a wombat hole and protected themselves with blankets and the fire went over the top of them. Part of the 1939 Victorian royal commission recommendations was that there be community bunkers. We did it in wartime. Most of that has disappeared as some of these communities have grown and people have become more blase. They say: ‘Oh no, we’ve got fire trucks. They’ll turn up and save the day.’ Personally, I think there has been far too much preoccupation with putting vehicles in streets, building sheds to house them and taking photographs with politicians in front of them rather than actually concentrating on some of these issues. A fire truck is absolutely useless in a fire of that magnitude. I am not decrying the efforts of the firefighters; they are needed. But in those circumstances, we need to do something about that urban-bush interface. The towns that are in those communities—and they are right throughout Australia—really need to have a close look at what could have been done to save these people. In the main, those who had bunkers were saved. They are very inexpensive, even if people went to the extent of stocking emergency oxygen bottles in the cavity in case there are low amounts of oxygen inside. So I suggest we learn a little bit from the past and look at the concept of bunkers. They are inexpensive. A backhoe can do them. People can put them in of their own volition. They could be the very thing that saves lives.

There are a couple of other issues that I would like to raise. I am told by Victorians that certain recommendations—I think it was two or three years ago now; I might be a little bit out on the timing—were made and unanimously agreed to in the Victorian parliament, including that a 300 per cent prescribed burn-off would take place. I do not think that has occurred yet. Maybe it has not had time to occur. But I think there was recognition from left, right and indifferent, Green and right-wing, that there was a common pathway for prescribed burns and not enough was being done.

I reiterate the point: the community has to recognise that you cannot expect to be protected from a wildfire in certain circumstances under the normal arrangements. This has occurred on the doorstep of Melbourne—although it should have had some impact on the doorstep of Canberra as well—and, because it is occurring near a major metropolitan area, maybe more of the community will recognise now that there is a community responsibility. Time and time again, we have seen it in Sydney—and I think all members of parliament have seen this—that when the authorities go in to do a controlled burn on the outskirts of Sydney or wherever, all hell breaks loose about smoke in the sky and people say, ‘This is tragic,’ and, ‘We saw a kangaroo in trouble,’ and, ‘It is all very unfortunate,’ and, ‘Why do you have to do that? We came here to live in the bush.’
There are many people who came to live in that bush who are not living anymore. I think there is a community responsibility to make sure that people who, because of their histories, probably do not understand are protected in some way. Obviously the prescribed burns around communities will have an impact. They will not stop fires, but they will decrease the magnitude of a massive wildfire, because it all works on fuel load. I encourage the Commonwealth, Victorian and, in particular—before a massive tragedy occurs in that area west of Sydney—the New South Wales governments to look at some of the implications of what is happening.

I would also like to commend the member for Mallee, John Forrest. John made some important points yesterday about practical issues, such as the removal of wooden crossbars from power poles. A lot of fires start with electricity shorting out. There is no doubt that that happens. How many start that way and whether such changes would have made a difference here no-one will ever know. But, if we are looking for real solutions, that is definitely one of the things that we should start to look at. Obviously the bunker arrangement is something else that we need to look at, along with prescribed burns, as I mentioned earlier. I commend the member for Mallee for his particular suggestion. I am sure there will be many more.

Many years ago—and I am told that similar things applied in Gippsland—there used to be a clearway on the edge of roads. I agree with this for other reasons, as well as for burn-off access. Most roads through timbered areas now have timber right up to the road. I have argued that many accidents occur because a car only needs to get 10 yards off the road before it runs into a tree. In a fire, as we saw time and time again on the television screens, all there was was a track through trees. Obviously, when the first tree falls over, there is no more track. In parts of Gippsland, other parts of Victoria and parts of New England, once one tree falls over there is no access—no way in and no way out. Surely we have to examine some of those issues. I know they are very difficult issues for the community—if the community is against it, the political process goes slowly; it puts dust on top of the royal commission report—but we have to take advantage of what has happened, in a sense, and say to the community, ‘You cannot expect to exist in these sorts of environments unless certain things happen to make sure that your living area is as safe as possible.’ Otherwise, all of these deaths will have been for nothing.

The other issue I would like to raise—and I realise that I am going on a bit—is that what we will see, in my view, is what we have seen in the past. This is a natural disaster. We have seen a range of disasters occurring: the Wollongong mudslides, the cyclone in Darwin, Cyclone Larry in Queensland and the Newcastle earthquake. We see a range of political responses to those disasters. You can see a difference between the response mechanisms for the Queensland floods and the Victorian fires even in these early days. We also see issues from time to time in how the insurance companies deal with these issues—whether the water came up as a flood or came down as rain—and the debate that takes place. They are both tragedies, but the legalities of insurance documents can treat them somewhat differently. If the political response moves in or it is not too interested, different results will occur. I have suggested for probably 10 or 15 years now that what we need in this country is a national natural disaster fund, where money is set aside annually for tragedies—irrespective of whether it be a Sydney hailstorm or a Wollongong mudslide.

Trying to determine those insurance payouts went on for years. It did not matter who caused the disasters; they were not caused by the people who lived in the houses. In Coffs
Harbour there was a similar situation. We see it time and time again, with different responses depending on the political cycle, the marginality of the seat, the generosity of the government, the balance sheet of the bank or whatever. Surely it is time to tackle this. One of the great things we have done in the last few days is take the politics out of the issue. Surely it is time to continue that and put in place a fund that can be drawn upon when these sorts of circumstances occur. There is no doubt in my mind that, whether Victorians are insured or not, they will have their houses replaced. That is going to send messages in different directions to different people. Maybe, to deal with these tragedies that occur, we should have a fund set up where all of those people affected, irrespective of their economic background, are looked after.

Some people would say, ‘Oh, that’s socialism,’ or whatever else, but in the last week or two I have been told in this building that neoliberalism is dead. Maybe we have to look at how the community can come together, raise a massive amount of money and have it in place for when tragedy occurs. I will give you an idea of how simple that is. One dollar a week from every Australian raises a billion dollars in a year. When I did some work on this some years back, there had been, I think, only one tragedy in Australia that had cost over a billion dollars. Normally natural disasters are in the range of $200 million to $300 million a year. You get the odd one. I do not know the numbers on Cyclone Larry—these numbers were done with the assistance of the Insurance Council of Australia a few years back. Twenty to 30 cents a week protects any of us from an unfortunate event which could happen to any of us—a hailstorm, an earthquake or any other tragic disaster. I ask the government, when this royal commission appears, to at least have a look at the way in which a fund could be put in place so that we depoliticise the process and treat everybody impacted by a tragedy in the same way.

The last issue I would like to raise is the climate change debate. No doubt everybody will have their views about climate change, but in this nation at this time there is more water in Queensland, which climate scientists tell us was going to be a consequence of global warming, and drier times in southern Australia, which climate scientists tell us is going to be a feature of the future. I think we will all be dead and gone when we know who was right and who was wrong, but at some stage, if we are looking at protecting the southern part of Australia—the Murray-Darling system et cetera—we must look at transferring some of the water that is going to be created in the north of Australia through human-induced climate change, using it to replace the depleted amount in the Murray-Darling system.

We are told that, because of climate change, there will be a 30 per cent reduction in runoff into the Murray-Darling system. That is human induced. It is not overallocation of licences or all the other stuff that is mentioned. At some stage, maybe we have to equalise the chequebook with those two areas. We see 60 per cent of Queensland under water now. Whether it is climate change induced or not I do not know, but there is a lot of wasted water there. We see the tragedy that is occurring in the Murray-Darling system, which could be ameliorated with an inflow of water from Northern Queensland or other parts of Australia. I thank the House and extend the sympathy of all New Englanders to those people in Victoria who have been affected.

The DEPUTY SPEAKER (Ms S Bird)—The member sought to table a document. Does the member still seek leave to table that document?

Mr WINDSOR—Yes, please.
The DEPUTY SPEAKER—Could you indicate the full title and authorship for consideration.

Mr WINDSOR—The document that I would like to table is a presentation by Craig Ingram MP, state member for Gippsland East, and it is titled East Gippsland: burned at the political stake.

Honourable member interjecting—

Mr WINDSOR—No, it is not a confidential document.

Leave granted.

Ms ANNETTE ELLIS (Canberra) (11.00 am)—It is difficult to say that you are pleased to rise on an occasion like this to talk to a motion like this, because we all would wish that we were not actually facing the circumstances that Victorians and other Australians are facing, but we are and, as the member for Canberra, on behalf of my community I want to record our deepest sympathy and empathy with all of those affected throughout Victoria and particularly those within the fire-ravaged areas and the areas touched by fires.

I asked my staff this morning to give me a list, to try and make me correct, of the federal electorates that are, to any degree, affected by this fire experience. And—at the risk of being a little bit wrong, and I hope I am not—the electorates remotely, closely or deeply affected cover almost the whole of Victoria. They include: Murray; Gippsland; Indi; McEwen, in particular; Mallee; Bendigo; Casey; Ballarat; McMillan; Calwell and Wannon—and, obviously, areas surrounding all of those electorates as well.

So when we, as a community, offer our sympathy and our empathy to all of those people, it is to the people within those electorates but it is also to those within the state of Victoria and, sadly, I have to say, it is to people throughout Australia who are now beginning to feel the effects as well. An instance of that is a family in my electorate—who I found out about yesterday, who have lost their whole family in Kinglake. So it is very evident that, when there are constituents of mine, who I personally know, who have lost a daughter, a son-in-law and three small children, we are beginning to see the tentacles of this fire spreading, in that human and personal way, throughout all the different parts of our community in Australia. We are, sadly, still at the height of it, and we really do not have any idea, I think, of when exactly this is going to end.

Unfortunately, from our point of view, in Canberra we can empathise. About three weeks ago we had the sixth anniversary of 18 January 2003, when Canberra suffered a very similar type of fire—but with a different outcome in terms of enormity. Whilst we lost 500-plus houses and, sadly, four lives, the extent of the Victorian fire in its coverage and its spread is obviously much, much greater.

Yet the experiences of this community of the ferocity and the speed of the fire are very similar in many ways. We are hearing stories from Victoria that are very similar to stories from here—and the member for Windsor made comment to this effect as well—in terms of the sheer unstoppability of a fire when it reaches that point. I know that the fire control people and the firefighters here in my community said to me on more on than one occasion after our experience that, even if they had had a fire truck on every corner of every suburb in Weston Creek, for instance, they still would have had no hope of stopping the fire, because once it gets to that point it is, literally, unstoppable. So the points that previous speakers—in particular...
lar, the member for New England—have made, in relation to what we can try to do as a community to avoid it getting to that point, are really the salient points of this debate about doing all we can to try and stop a repeat of these horror stories. The experience also we have had here also leads me to comment, if I can, on what we are seeing as an impact down there and what we can begin to imagine is ahead for those people.

Obviously, the loss of life is beyond comprehension. The numbers are horrendous, and behind every single one of those numbers is a person with a family—the human impact. Then we have the loss of homes and buildings, livestock, pets and wildlife. There is also the loss of infrastructure—the community buildings and schools and places where non-government organisations and community support services operate from. All of those support services that exist day by day within our communities have lost their ability to operate out of a facility. And the infrastructure in terms of roads, bridges, power poles, telephone boxes and letterboxes—imagine all of the things that are part of the normal street where you live—is all gone. The rebuilding of all that infrastructure, in every shape that it takes, is going to take a long time.

I turn to the rebuilding of houses. I know that here in Canberra a small number of people who lost everything had left within 24 hours and were never seen again. That was their way of dealing with the impact on their lives. Then we had some folk who could not wait to rebuild and miraculously had a house up within three months. We had others who needed time to think of what they wanted to do. Did they want to replicate their house? Did they want a new design? Did they actually want to do it? Were they prepared to consider trying again in blackened areas? In some of the hot spots the soil was burnt down to a metre, and that is what has happened in Victoria. To imagine that you can begin again in that sort of scenario takes a bit of thinking, and these people needed some time to do that.

Then you had others who took a year or two to decide whether they could stay and rebuild. If you go to the worst hit suburban areas here, you may even today, six years on, see the odd block that is left where people have not been able to make up their minds. They are in a very small minority now but they still exist. So what I am saying is that the human reaction to this is going to be varied and as a community—including this government, state governments and authorities—we need to understand that giving a commitment to rebuild is the best commitment we can possibly give, because it gives an indication to all of those people that no matter what their decision is the community is with them and will do it with them. We also need, however, to understand that the impact is so deep that people will need to be able to work through their reactions in a variety of ways.

Then you have the people whose houses did not burn. Whilst initially they will celebrate that and be thankful for it and shocked by it, they will also have their own pathways of recovery. In many instances, probably, when services come back those people will be able to resume their lives in their houses, although they will be living in blackened, desolate surroundings—and that in itself will have a cost, emotionally, to them. I cannot imagine anything more difficult than going back to a house that was in a beautiful area that is now surrounded by death and destruction in a very blackened landscape. We will have to show them some understanding. Those people will go through a phase where the area around their home, should they be back living there, becomes a reconstruction site. And that in itself will bring a variety of challenges and new circumstances, none of which is insurmountable and none of which, I
suggest, is necessarily bad—such as building controls, new shapes of houses and the impacts on neighbours.

The pathway to recovery for all of these people is going to be very vexed and incredibly varied. There will be an enormous range of outcomes for everybody. They are going to have to decide how and when they can afford to rebuild their local footy club. They will need to reconnect with their neighbours. Those who decide to go back to their communities will find that other people have not gone back and their communities are different. That all brings about different social needs, different community expectations and different pressures.

The reconstruction authority and the royal commission that have been announced are absolutely correct and proper and they should happen. In my view we should be dedicated to the rebuilding process and we should do this with the greatest of enthusiasm. I am not doing a comparison here with our experience, because this has had a much heavier impact, but the speed of the fire and the devastation were very similar and the impact on human lives will be very similar. Members of this parliament, members of the community, officials, agencies and governments need to be fully prepared for a long recovery process. We should not expect these people to be okay in six months. We should not think that, if they have their house up, they are okay again. It will take time.

I very sincerely acknowledge the actions that are being taken to offer a variety of counselling. That is going to have to continue for a long time. I want to very strongly emphasise that the need for all of those recovery support services, such as counselling and financial assistance, will last a long time, and people need to be given that time. In that period they will need encouragement as well to know that they are going okay, whatever direction they take.

In any tragedy of any enormity, whether it be an unexpected death in the family, an accident or going through something as enormous as this, we as human beings have a tendency to move after the initial shock of what has happened into a period of grief and then—depending upon the circumstances, of course—into a phase of anger and then into a phase of asking questions such as: How? Why? Is there someone I should blame? Is there someone I can blame because that might make me feel better as it removes from me all of the other emotions that I have gone through? That is going to happen in this instance. It happened here as well. Some folk found it necessary to continue down the path of blame for some time. In my view, in doing that they left the sores of emotions open for a long time. Others really just wanted to get on with their lives and put all that behind them. So again there will be a variety of responses.

I join all the other members of this parliament in applauding the community response and the appeal process. People have an anxiety to help. People want to do something. They feel that the only way they can deal with this terrible thing is to be part of it, to get in and assist in some way. I actually smiled wryly the morning before last when I had morning TV on, which I usually do not do. The journalist was interviewing a fellow standing outside a recovery place somewhere who was doing his little bit. He had a barbecue and he was cooking breakfast for everybody. He said that people really needed a feed. When someone asked him if there was anything he needed, he said he needed some bacon. Within 20 minutes he had 50 kilos of bacon in front of him. He did not know what to do with it, because he did not have enough people to eat 50 kilos of bacon.
That reminds me of what happened here in Canberra when there were lots of offers of furniture and mattresses. The ABC put out a call for utilities: ‘If you’re out there with a ute and you can help, could you call in.’ Within 20 minutes they were saying: ‘Please, we don’t want any more utilities. We’ve got nowhere to put them. We’ve got a traffic jam outside the ABC.’ These instances reflect the general population, who are not involved in this in a physical way, wanting to be involved by offering their help.

Obviously what we can do there is turn that into support. I know that they are being flooded down there with physical assistance—they have so many clothes and all that sort of stuff—and that is wonderful, but I am saying to my community—and I think we all are to our own communities—that we really need people to donate money. It does not matter if it is a $2 coin or a $2,000 cheque; what matters is that we get some financial assistance down there through the appeals that are now open. I am asking my community to do that, and I know we all are.

I want to commend the speakers preceding me through this whole debate. Mention has already been made of the member for McMillan—and I have to say that contribution yesterday was pretty enormous—but I want to thank the Prime Minister, the Deputy Prime Minister, the Leader of the Opposition and the Deputy Leader of the Opposition for the leadership they showed at the beginning of this debate and the words that they have given to the parliament. I want to repeat the condolences from my community. I am aware that the Premier of Victoria and the Chief Minister of the ACT have already had some discussions. Given our experience, we have some knowledge on how to set up recovery processes and so on. I know that that is now happening. I am really pleased about that because I know that there will be people here who will really want to help in any way that they can in a practical sense in those processes. I am sure that that will happen.

In conclusion, I want to repeat that feeling from our community to Victoria. I want also, as I have indicated, to mention that there are going to be other people around our communities who are indirectly—and therefore directly—affected just by the impact of having family members down there, let alone by the loss of family members. We should consider that as well when we are talking to our own electorates. We must do what we can to help anybody if they need to get some assistance and they need to talk to people. If they are feeling boxed in in any way, we should not leave them there. We should get them out and offer them whatever access we can to counselling, so that they can sit down and talk about the emotions that they are going through. As has been said, this is the biggest and the worst that we have seen in this country in terms of human impact, and we need to deal with it. I really am grateful to have this opportunity, and I join my comments to the comments of all other members of the House. I wish everybody in Victoria the very best under the circumstances.

Mr BRIGGS (Mayo) (11.17 am)—I rise with great sadness too to speak on this motion. I thank the Deputy Prime Minister for moving the motion. I too pay tribute to the words of the Deputy Prime Minister, the Prime Minister and the Leader of the Opposition, but more particularly to our colleague the member for McMillan and those affected in the fires. I look forward today to the member for Gippsland’s contribution at 2 pm and to the contribution of the member for Indi, whom I spoke to this morning. As we all know, Sophie is a tough person, and she is pretty upset by the whole thing. I look forward to her words this afternoon, as eve-
ryone else does. I was impressed by the speech by the member for New England. I thought he made some very good points, which I will speak of later in my contribution.

The words to describe this tragedy are not there. There is nothing we can say which puts into perspective what is actually still occurring in Victoria. The article on the front page of the Australian today—especially the first seven or eight paragraphs, about what happened in Marysville—is quite staggering. The suggestion that 100 of the 519 residents may have perished in Marysville is something which is beyond belief outside a war zone—one in five people in a township. As I said flipantly yesterday at a doorstep interview on the way into parliament, it just reminds you to hug your kids, because what is going on in the human tragedy that we see still occurring is beyond belief.

We talk about the stages of recovery—and the member for Canberra knows too well. We moved to Canberra not long after the Canberra bushfires, for work, as many do, and many of the people who became our friends lived in Duffy and those places and had similar experiences of a firestorm. It is remarkable that only four perished—four is too many, of course—and 500 houses were lost. One of the things that struck me in Duffy was when we moved here and we went for a drive around, as you do in a new city—you explore. We went up and had a look. This was about six months after the bushfires. The indiscriminate nature of it strikes you. I remember driving about four streets back in Duffy, and a house was gone. All the other houses around it were fine, but there had been embers and it had gone up. I think that was one of the houses that someone had died in. The other bit was the road. I forget the name of the road along next to the pine forest—

Ms Annette Ellis—Eucumbene Drive.

Mr BRIGGS—Yes, that is right. It flew down. There were two or three houses that survived. In most of the street, how bad it would have been for those people. That would be terrible. And it is the same in Marysville, where I think there are four houses out of all the houses in that town. How you would go back is very difficult. I do not think we have any ability to understand this just yet. Looking at people around this place, I see a look of shock and disbelief in everyone’s eyes. That is the best way to describe it.

I am very proud to be part of this parliament and the response that we have made this week. I commend the Leader of the House on today’s announcement. I know he spoke to our Manager of Opposition Business this morning. I had dinner with the Manager of Opposition Business last night. As many know, I live with the Manager of Opposition Business, which brings all sorts of challenges for me personally! I said to Joe last night—and I know my colleague the member for Mitchell did as well—that it is just not possible to have question time this week. There is no question you can ask of the government this week which seems reasonable in this circumstance. I am very pleased that the manager of government business and the government have agreed with that.

I thought the speech of the member for McMillan yesterday was something else. It was just dripping with emotion. It really indicated how difficult it is down there. I put out my heartfelt thoughts to the member for McEwen, whom I have known for some time. In my role previous to this role in parliament, in the Prime Minister’s office, she was one of my ministers. We had a close relationship. The member for McEwen is a very tough lady. I sat on a plane with her last week, and we were talking about all sorts of things. Her community came up, and the love she has for where she lives and the people of her electorate—as many of us do, of course—is
second to none. She is really feeling it. She spoke to our Opposition Whip this morning, and she is doing it tough. She has had to abandon her house and her office. I think we should all acknowledge and think about what she and her community are going through and will continue to go through for some time. It is an ongoing crisis.

On that, there is one last point I want to make. I am not sure whether members saw it, but yesterday in the *Australian* there was an article by Gary Hughes, who was there. He lives there. He is a journalist with the *Australian*. I think it is one of the best pieces of writing I have ever read. The ability of a journalist to describe things, of course, is their job, but to live through it and be able to do both is another matter—I think it is an extraordinary piece. I pay tribute to him for it.

That brings me to my electorate, the electorate of Mayo, in South Australia, and our connection to these issues. If there were a major fire in South Australia, it would be in the Adelaide Hills. We have not had a major fire in South Australia around suburban Adelaide—although we have on the Eyre Peninsula—since prior to the first member for Mayo being elected. That was Ash Wednesday, in 1983, where I think 28 died in the hills, six on Greenhill Road. For anyone who does not know Adelaide, that is a major metropolitan thoroughfare. They were caught with falling trees and so forth.

I can tell the House that last Saturday I was scared. It was a scary day. The wind was unbelievable. The heat was unbelievable. I had a mobile electorate office at 10 am on Saturday, and the car told me it was 42. It was just insane. I pay tribute to the 12 people who rolled up to that, because I probably would not have! It was a very scary day, and I had the radio on all day, listening. We were very lucky, and I thank those above us who prevented anything from occurring. The CFS do a wonderful job.

But I am very concerned, as I said in my local paper today, about going forward. I think we do need to look at how people are warned. You cannot fight these firestorms, and we do need to consider in the future whether there should be a better early-warning system on days that are 41, 43 or 44 degrees with high winds. I do not think we should be encouraging people to stay with their properties. We give cyclones categories; maybe we need to look at categorising days in the summer if you live in a higher risk bushfire zone. I do not think we should be encouraging people to stay with their properties. We give cyclones categories; maybe we need to look at categorising days in the summer if you live in a higher risk bushfire zone. I am pleased the Victorian government is having a royal commission. There should be a range of inquiries into this. We need to learn the lessons. But we are only halfway through this fire season. We have got another hot weekend ahead in Adelaide, we are in a massive drought—water is a huge issue in my electorate—and of course there is no groundwater because of that and the trees are very dry.

In our country we forget that our bushland is meant to burn; it has traditionally burnt. We are fighting against nature in a lot of ways. I have heard other members in their contributions talk about the fact that people live in areas that they previously did not live in. But, in the Adelaide Hills, that is not really true; people have lived in the Adelaide Hills since Adelaide was born. The Hahndorf area and so forth was settled in the 1830s by German Lutherans, so people have been living in and around the hills for a long time. My electorate does not have many national parks where burn-off is a big issue but it does have a lot of private property where it probably is, and so we do need to look at the undergrowth debate at the appropriate time.

I also strongly believe that in bushfire zones we may need to go down the track of implementing a system of fire shelters—fire bunkers or cellars; whatever you like. In Northern
Queensland—and this happened in Darwin, of course, after Cyclone Tracy—you build houses that will withstand a cyclone. I understand the access road argument, but in some parts of the Adelaide Hills you are not going to be able to build more roads to get out. It is the nature of living there.

So we do need to consider the lessons here. I am very concerned about the rest of this fire season. I just hope and pray we get through it. But I do think we need to very quickly look at the lessons from this fire tragedy—and look at worst-case scenarios, because there are a lot of circumstances where you can stay and fight and prevent the fire; however, if it is a firestorm such as it was on the weekend, with those high winds, it is just not possible. We do need to ask these questions at the appropriate time. We need to look at the policy responses here and at the state and local levels. But today is not an occasion to do that; this week is not the occasion to do that. This debate today and over the following days is a time to send our support to those who are suffering in the ongoing crisis and those who have lost so much already. As the member for Canberra rightly acknowledged, there will be stages of grieving, and we need to be there for those people.

I end on this note: my thoughts and prayers this week are with Fran Bailey and her people, and all those others who are affected by the fires—but in particular with Fran because I know how deeply she cares for her community and for her people, and I know she will be very sad at this time. I hope that everything works out for her for the rest of the week.

Ms GEORGE (Throsby) (11.30 am)—I take this opportunity to speak on the condolence motion moved by the Deputy Prime Minister, and I do so because it is through me that in a collective way the citizens of the electorate of Throsby can extend their sympathy, empathy and compassion to all the people who have suffered in this unspeakable national tragedy.

The people of the Illawarra know a little bit about human tragedy. It is a mining region and up until the events of this week the greatest national tragedy in peacetime in fact occurred in the Illawarra. The Mount Kembla mine disaster of 1902 led to the deaths of 96 men and boys from the village surrounding the mine site. That human tragedy followed another mine disaster in March 1887, when 81 men and boys were killed at the Bulli mine. Our local paper on 2 August 1902 had this to say about the events of the mine:

A gloom was cast over the whole district on Thursday last when it became known that a dreadful explosion had taken place at Mount Kembla a few minutes before 2 o’clock at a time when there were upwards of 250 men in the mine. The explosion resulted in the roof of the mine tunnel collapsing and imprisoning the men.

So I say that it was, until this week, the largest peacetime land disaster in the nation’s history. In human terms, a third of the village’s male population died in the tragedy. Thirty-three women were left widowed and 120 children were fatherless.

In recent times, since I have become the member for Throsby, I and my colleague the member for Cunningham every year participate in the commemoration of this disaster at a place called Windy Gully, an eerie place where many of the miners were buried. So it is in that context that the region, having itself lived through and understood the history of human tragedy, understands and grieves, and I am sure that each and every person in our communities, in both Cunningham and Throsby, is really heartbroken by the events in Victoria.

The motto that we commemorate each year at the Mount Kembla mine disaster commemoration is this: ‘The past we inherit and the future we build’. So despite the devastating events
early in this century I think that there is a message of hope to all those communities who at this present time are indeed in grief and mourning. Regrettably, now 7 February 2009 will probably go down in the annals of our history as the darkest day in Australia’s recorded peacetime history. We all know about the events of Black Friday in 1939, Ash Wednesday in 1983 and the more recent Canberra bushfires that my colleague the member for Canberra spoke about this morning. But this day, 7 February, so graphically commented on by the member for McMillan yesterday in the House, we will remember always as a day when 400 fires burnt across that state in the most severe weather conditions recorded. As the member for McMillan said yesterday in talking about this disaster, there was the inescapable disaster in the face of an indestructible force, the awesome fury of the fire and the unprecedented trauma it created.

I have never visited the villages and towns of Kinglake, Marysville or Flowerdale, but somehow I feel over the last few days that I really understand the grief of that community and see what would have been idyllic towns and hamlets set among that beautiful natural scenery. You really feel that the names of those towns will for ever be etched in memory—Kinglake, Marysville and Flowerdale. How could we ever forget? And how could we ever forget the time when the Deputy Prime Minister was moving the condolence motion and just in the course of her speech another dozen or more people were added to the list of those who have lost their lives?

At last report, I think the number of people who have perished in this enormous inferno is registered at 181, let alone the hundreds who have been burnt and injured and the people who have lost not just loved ones but property and livestock—even, in a sense, their own identity. It is absolutely devastating. One can only imagine the horror and grief that surrounds all of those communities. It is important that as politicians we let people know in Victoria and in the areas affected that the nation is with them and that we are doing what we can, in prayer, sympathy and contribution, as this disaster unfolds. For the coming weekend, portents of heatwave conditions again are very worrying for all concerned.

To all my colleagues directly affected—the members for Bendigo, Ballarat, Indi, McEwen, La Trobe, Gippsland, Casey and Wannon, and others who will speak today about the terrible situation in North Queensland, with the flooding there—I just want you to convey in your own way the condolences and sympathy of the people who I represent in my electorate of Throsby. We are all absolutely stunned by the magnificent heroism of the firefighters—people who put their lives on the line in these really tragic circumstances that have confronted these wonderful communities. I want to acknowledge the efforts of the state and federal police, members of the emergency services, councillors, government personnel, defence personnel, medical teams, nurses and doctors dealing with burns victims and other injuries in the major hospitals in Victoria, all those who have participated in the bushfire relief funds, the Red Cross, the Salvation Army and other agencies. Last night when I came home I turned on the cricket, and even at the cricket there was an enormous gesture of commitment by the people and the team, who I understand are also visiting the affected areas this morning. Very importantly, I want to acknowledge the volunteers.

I just want to recount a little cameo. I rang my former PA who worked with me at the ACTU—a wonderful woman by the name of Denise Power—and I was not able to get through to her. She had previously lived in Arthurs Creek, very close to the affected area, and

MAIN COMMITTEE
has now moved to Fran Bailey’s electorate of McEwen. I could not get through to her so I
sent her a text message and asked, ‘Are you okay?’ She said, ‘Yes, Jennie. I’ve been working
down at the Diamond Creek Community Centre.’ I replied, ‘You’re a good girl, Denise.’ I did
not mean that in a patronising way but meant to say: ‘It’s people like you who we as a nation
can always rely on—the good, kind community- and civic-minded people for whom nothing
is ever too much trouble.’ There would be hundreds of Denise Powers working in all those
community centres, doing what they can to aid our NGOs in that very important work that
they are undertaking.

I also particularly want to acknowledge the efforts of the Prime Minister. He was in the
right place; he should have been there with the people. They are obviously going through a
terrible time and I think that to have the leader of the nation and our minister for families re-
main with those communities is very important. My thoughts are also with the Premier of
Victoria. I think the Leader of the Opposition said it well when he said, ‘We have to do as a
nation whatever it takes to deal with this immense tragedy.’ The member for New England,
who spoke just before me this morning, talked about taking the politics out of the issue and
how important that has been. That has not failed to register with our communities.

In that regard, I want to read a message that was emailed to all members of parliament yes-
terday. By chance it is from a constituent of mine. I want to read it because I want it to go into
the Hansard record. Mr Steve Lewis of Flinders probably expresses in this message to the
Speaker the views of people outside the parliament. He wrote:

Being a train driver, I have neither the stature nor the eloquence of speech that the honourable members
have. Having been a volunteer with the SES and Fire Brigade for 20 years I realize the problems being
encountered by both victims and rescuers. My emotions well up and feelings go out to those involved.
Today I watched Parliament and was taken aback by the speeches. Never before have I been so proud to
be an Australian. Here were my representatives putting into words what I could not and to a nation that I
could not. It goes to show what a great country we are. Aussies don’t all fly the flag, have an Aussie flag
tattoo or know all the verses of The National Anthem. But like all families, when ones in trouble, we all
come to the rescue.
To put it simply: You blokes made me very proud today.
Mr Jenkins, please thank The Honourable Members for myself and other ordinary Aussies.
So, thank you very much, Steve Lewis, for taking the time to convey in your own words the
expressions of feeling that I am sure are shared across the nation.

The rebuilding of lives and communities is not going to be an easy task, nor is it one that
can be completed within a short period of time, as the member for Canberra rightly pointed
out. But I think these devastating events, as with those in our nation’s history that I referred to
earlier, will bring out the same qualities of resilience, strength and stoicism, with Aussies one
and all pitching in to do whatever they can in their own way to assist in dealing with this
enormous tragedy.

In conclusion, on behalf of all the citizens of my electorate of Throsby I want to say that
we are grieving with you, we feel for you and we empathise with you. We pay tribute and
commemorate the lives that have been lost and feel for the victims. And we want to thank the
firefighters and all the volunteers, without whose help it could have been so much, much
worse.
Mr BILLSON (Dunkley) (11.42 am)—I want to commend all my colleagues for their contributions, particularly the previous contribution, from Ms George. In my 12-plus years here I have not sensed a more poignant or purposeful atmosphere in this parliament. It has been quite an inspiration and there has been a sense of shared purpose throughout this building, which is actually a bigger town than some of those that have been lost in the fires. There are more people in this place than in some of those communities, and you can sense the atmosphere here and the sombre solemnness with which people are going about their work. But there is a sense of genuine and sincere effort to help those communities, many of which are still facing great dangers, and our thoughts are very much with them.

I was keen to convey the condolences and best wishes of the community of Dunkley. My electorate is known for its generosity and my constituents for their preparedness to roll up their sleeves. We were touched briefly by fire much earlier in the season, with grassfires on some of the major arterial roads in our community, and we unexpectedly lost houses from grassfires getting out of hand. I think it was an enormous shock for our community that so early in the season fires of such rage and vigour happened in our homes. They were very small in scale and ferocity compared with what we are talking about now, but they were profoundly disturbing. Those who lost their homes and showed great courage to preserve the homes of others have perhaps an insight into what many thousands more are experiencing right now. That was on a much smaller scale, but still incredibly life-changing for those directly involved.

What is happening now, though, elsewhere in my state, the great and courageous state of Victoria, is a ferocious fire that we cannot stop. It stopped the nation but we cannot stop the fire, and people are fearful about what may be ahead. What we do know is that the loss of life has been extraordinary already, and we are fearful that that will get much worse. Our condolences and our prayers go to those who have lost loved ones. Our sincere and ongoing thoughts are with those who, at this stage, are well but who have to cope with the unrelenting wait and anxiety of loved ones missing.

I know, from the time when I was responsible for some of our overseas responses to international disasters, that the term ‘grave concern’ takes on a special significance. There are dozens for whom we hold very grave concerns, and it is an exhausting time for those who are having to cope with that. They have a personal imperative to keep nurturing their own reservoirs of hope and optimism for their loved ones, but in the back of their minds they are realising and contemplating a more fateful outcome. I particularly want to mention them, having had some insight through other work into what that is like—not knowing. That uncertainty is agonising. No serenity can be found, because there are no answers for people.

I also record our support for the families and friends of those who have loved ones on the fire fronts. They are very alert to the dangers and they know that people very dear to them are in that space. For people from regions like ours on the Mornington Peninsula and for those in the hilly country around Melbourne and beyond, there is a general awareness of the dangers. We can only admire those who know that their loved ones are in harm’s way whilst they are trying to do good and showing enormous selflessness and resolve. I say to the families and friends of those who have loved ones making that extraordinary contribution: we are thinking of you as well. And we are thinking about those who are actively implementing their fire plans and having to make very difficult judgements about what to do and when to move.
My best wishes and encouragement and that of the community I represent also go to the officials and the agencies charged with this awesome task of planning and managing the response and to all those supporting that effort—the logisticians that are trying to make sure it all works so that those on the front line can give of their best. Everyone is trying to make sure their performance is optimised. We see the images on the television. What is less clear is the enormous work that goes on behind the scenes to make those extraordinary efforts possible. I greatly admire the support service providers who are collaborating on the ground—the police officers and the ambulance officers, who have a really tough and demanding job in ordinary circumstances and who are carrying out such a difficult responsibility in the unspeakable and barely imaginable circumstances we face now. The local councils, essential service providers, companies, small businesses and community organisations that generally make our communities tick are executing their ordinarily routine responsibilities in these extraordinary times. They are persisting under great stress, and I admire their work.

I particularly want to mention our respect for the patience and diligence of the medical officers, particularly the burns specialists, who are caring for those who have been injured. Caring for a burns victim is an extraordinary responsibility. The honourable member for Bowman, who is at the table, would know, as a medical doctor, about the risks involved, the rollercoaster of recovery, the setbacks in the condition of health and the way the body can react to the toxicity of what was survived immediately but which sneaks up on the victims. That is extraordinarily hard. I also mention those with that gruesome and difficult but incredibly important task of disaster victim identification. Again I draw from my time as Parliamentary Secretary for Foreign Affairs after the tsunami and from the time I spent with our experts in Phuket and other places who were working to try to get an answer that was 100 per cent right, because mistakes can mean that people are revisiting nightmares. Care and diligence are what is needed. I hope people appreciate the patience that is required and the importance of getting that work right all the time in every case. It is crucial.

I also want to talk about the helpers and the healers—that network of people who come out and make sure things are okay. They make the tea; they listen to the experiences. They are the pastoral carers that work amongst those with more defined roles. They fill in the gaps that need to be filled and they lend an ear, a shoulder and a hug, and make sure that those who have a more defined role are supported. I have often said we can always do more to care for the carers. Carers are so giving, helpers are so keen to help and volunteers are so absolutely driven by the conviction to do all they can that there is a need for someone to make sure they are okay too so that they can keep doing that work.

I want to commend the generosity of Australians that are donating of their own free will. Again, down in my community, and particularly around Frankston, Mornington and Langwarrin, there is a very generous community. The greater Dunkley community has been very generous in this case, and that is terrific.

Words do not seem to quite capture my enduring admiration and respect for the firefighters. There are probably a million other things the volunteer firefighters could be doing but they are doing this. Their service is extraordinary. We have volunteer crews up there from the area that I represent. I will touch on that a bit more later, but to see the selflessness, the courage, the persistence and the overcoming of fatigue and physical weariness is just extraordinary. I salute each and every one of them and admire them greatly.
I mentioned their physical weariness; I would like to move on to the emotional health and wellbeing of all those involved. Those that have suffered and served will not immediately bounce back to their cheery selves when the fires are extinguished. These people are seeing things that we are not really supposed to see and feeling emotions that we hope people never feel. That could bring a post-traumatic response that could affect their wellness for a long time. Long after those hills around Melbourne start seeing green shoots of fresh life and a rebirth of communities, they will still be recalling what they have endured. Particularly for firefighters, those that have survived the inferno, it is an apocalyptic environment. We need to appreciate the mental impact and the emotional burden of what people are enduring now and will continue to endure for some time.

I hope that those planning the response take account of the emotional wellbeing of the communities involved. I commend the government for recognising the importance of that part of this endeavour, with Centrelink social workers and the like being part of the government’s response. I commend the government for responding generously, wholeheartedly and with all that it has to offer. There is capability right across the Commonwealth and the agencies that we interact with, and I am pleased to see that that is being brought to this extraordinary task. I congratulate the Prime Minister for his presence in the area, for the time he was able to attend; the opposition leader and the government ministers that are there doing all they are able to; and the local members who are doing all that they possibly can and wishing they could do more. I know Fran will work herself into the ground. Our thoughts are with her and we hope there is some respite for her so that she can continue her good work. She is a good woman and she will be there giving all of herself for her community.

I would also like to acknowledge, recognise, congratulate and give encouragement to our other parliamentary colleagues who are there providing whatever contribution they can. I have mentioned the member for McEwen. I want to note that the speech from the member for McMillan, Russell Broadbent, yesterday in this parliament was vivid, captivating and incredibly insightful. To the members for Gippsland, Mallee, Casey, Indi, Ballarat and Bendigo, as well as others: our thoughts are with you, and we respect and admire what you are doing.

In the local area I was able to speak to the Country Fire Authority and brigade duty officers in the electorate of Dunkley. Frankston has an interesting firefighting presence. It is both CFA and Metropolitan Fire Brigade; it is both professional and volunteer. We ask a lot of the Frankston fire service and they do a terrific job. The organisational work that has been going on to make resources available is quite extraordinary. I want to acknowledge that the MFB has supplemented the CFA capability in our community that is geared to rural firefighting so that that rural bushfire capability best suited to this task could be made available to make a contribution. The MFB then brought some of their capability down to Frankston so that our community was not left unsupported and unserviced by a fire response capability. The teams are big and the activity is characterised at the moment as a big stretch. It is testing everybody and there is an enormous amount of work going on. The Frankston brigade has sent volunteer members and strike teams to Gippsland. It has been part of a region 13 regional response. It has been covering fires in Cranbourne, which is not normally part of its reach. It has been doing a remarkable job and I want to salute all of the people involved.

I also want to congratulate and give credit to Frankston City Council. This tragedy has its epicentre of activity and the action to deal with it creates a ripple effect all the way through. I
have mentioned how making available the rural fire capability out of our outer metropolitan fire service then saw the Metropolitan Fire Brigade come in to supplement it. Also, Frankston City Council has made available some of their parks vehicles and ranger vehicles to supplement the resources that are available. That kind of collaboration is to be commended, and I congratulate Frankston City Council for recognising it had the tools, equipment and capability that could make a contribution to this cause.

Langwarrin has been extremely busy as well, making tankers, strike crews and relief crews available, and Kylie at Langwarrin was particularly keen for me to mention the ladies who have been walking in off the street. The good folk of Langwarrin recognise that the men and women of the fire brigade are very stretched, so people are randomly walking in off the street to help out and to make sure there is a bit of sustenance for those that are doing the work. I think that is just terrific. Taking Mornington, we have got tanker and bushfire response crews out at Kinglake. Mornington’s involvement is five trucks, five members and a lead vehicle with a crew operating in the bushfire zones. At five o’clock every morning a bus leaves Moorooduc, carrying crews to go and provide relief for the strike teams up there, and then it gets back at 10 o’clock at night. That is happening every day. It is an extraordinary effort.

I also want to mention our local Frankston State Emergency Service members. They have been very busy. Their crews are in the Upper Yarra. In fact, the SES community has certainly made its contribution. In Marysville eight of the SES volunteers out there, working as part of the effort, have lost their homes. In other areas, other volunteers who have lost their homes are still putting in an enormous effort.

Last Saturday was extraordinary in Melbourne. For those people who are not familiar with the climatic conditions, I note Frankston SES were very busy last Saturday but it was not because of the fires. They were very busy attending to storm damage. The extraordinarily strong winds were so powerful that our SES crews were out fixing roofs that had been blown off or damaged. That gives you just a little picture of what it must have been like in the fire areas where the microclimates that fires create were being fanned by these winds so severe and so damaging that we had SES crews dealing with storm damage. That gives you a sense of the conditions up there.

The emergency response effort continues, and the rescue and recovery work is ongoing; it is chilling in some respects and extraordinarily rewarding in others. We salute everyone involved with that. The rehabilitation work is beginning in some cases. The building is one thing, but rehabilitating the lives and the wellbeing of the people involved and the community fabric is another challenge entirely. I am pleased that, in my own electorate, Joe Dimech and his team from Kitome have said, ‘We just want to help.’ There is scope for his business to work with building suppliers to very quickly make housing available, if that is helpful. They can ramp up production and put specific living pods in place that are very basic but give people a chance to get on with their lives in their own homes and their own communities. These could then be incorporated into the more permanent structures that will need to be rebuilt. I will pass Joe’s offer and ideas on to the team the Prime Minister has working on this. I think it is a very useful contribution of something that is needed urgently here and now, but it is also something that can play a role in the longer term re-establishment and reconstruction of communities.
It is also a time to think about what we might learn from these events. I will not mention the full name of this person, but just minutes ago an email came to me and, I think, a number of other members. Amanda has written to me reflecting on her sister-in-law’s experience at one of the sites of the fires. In fairness, I will not mention which one specifically, but she is conveying a deeply-held concern amongst residents who were apparently told that there would be some restrictions on rebuilding activities—that there would be some broad acreage threshold that would need to be met if people were to rebuild their homes. She connects that disturbing advice with some people choosing to stay to protect their home, fearful that they might not be able to rebuild.

I do not know and I have not been able to verify the accuracy of these reported comments, but it reflects a concern amongst the community about what may happen next. For me, it emphasises the need for clear, accurate and reliable communications at this time of rebuilding and reconstruction. I remember travelling to Banda Aceh shortly after the tsunami. The tectonic plates had dropped around the Ulee Lheu port, and king tides saw all the water come back in. Families just wanted to get on with their lives, and these difficult decisions about reconstruction templates were very hot topics there. People were already highly emotional, for reasons you could understand. The need for clarity, thoughtfulness and calibrated language is never more important than it is now. I will pass that on to the Commonwealth authorities to alert them to some of the anxieties that are there.

In closing, I just want to touch on something that my colleague the member for Mayo touched on. This relates to what we may learn from this tragedy. I understand and recognise the advice that is given to property owners about having their fire plans, being certain about their intentions and being able to implement those plans should circumstances arise. What I have seen and what I have been told is that it is hard to calibrate the scale of the danger that people are facing and what that might mean for those fire plans. The heat—the 600 degrees Celsius heat—that melts alloys on motor vehicles and the like and that sees trees instantaneously combust and houses turn to embers, rubble and ash so quickly is something that is hard to contemplate. I do not know how I would contemplate that. I wonder how people in a serene moment with all of their faculties fully operating and no external stressors, would, even in that perfect environment, contemplate it. But how must people contemplate that and make those split-second decisions while facing the fierceness of this ferocious beast on their doorstep, which is moving at speeds of a runaway train that you cannot stop? I wonder whether being prepared is one thing, but knowing what you are being prepared for may need to be a part of that education.

I have a friend who, thank goodness, has left his property, which is north of Yea. He was there. He was prepared. He is an extremely capable individual but he was there on his own. His family were terrified for him every day and could not ring him because the communication systems were not working. As the member for Throsby mentioned, you could send texts but not communicate by voice. Trees were blocking roads, so he could not move freely. Of the local fire appliances in his community, one had already been destroyed in the fire and the other one was damaged, so there were not many supplementary resources around. The only way he was able to understand what was happening with the weather conditions was by my texting them to him, and he was having to make judgements about what to do.
He characterised it to me as not being a regular grassfire, which he had planned for and could understand. This was a wildfire; it was in the air. Thankfully, he revisited his ability to deal with that. He reflected on his actions to move his beloved stock—‘the girls’, he calls them; they are Lowline Angus beef cows—and how they were very, very frightened and not behaving well. He thought, ‘Gee, they could knock me off my feet; something could happen, because of the extreme environment and the animals behaving accordingly.’ He thought: ‘What can I do? I can’t ring anybody. I can’t get anybody to come and help.’ He said they were important moments, as he had spent day after day on his property with a heightened sense of awareness about ember strikes and the like, hearing snippets about what was going on, wondering who would be there to help and thinking about a conventional fire. And then it dawned on him: there was nothing conventional about this fire. It was bigger and angrier than anything he could have imagined. His desperate need to know what was going on and what to do was hampered by communications impediments in the area. The information could not get delivered any way other than via a text message.

The empathy for those who faced those decisions must be real and ongoing. We need to go beyond the talk of ‘be prepared to fight’ or ‘leave early’ and actually talk about the kinds of fires that people can reasonably contend with. The front-page story in the Australian by Gary Hughes was extraordinary. Recognising the limits of individual capacity in the face of something as extraordinary as this is something we need to address. When people talk about being prepared we should not just say, ‘I’m prepared,’ but ask: ‘What, actually, am I prepared for?’ When do the limits of what an individual or a property owner can do strike? When is there an opportunity to revisit?

With those few remarks I most sincerely wish everybody well. The weekend coming up is not going to be good. The climatic conditions are going to present new challenges, and the best we have to offer have been giving their very best now for over a week. They will be tired and fatigued but they will give their best again. I hope we do not see a further escalation in the scale of this tragedy and in the enormous loss of life we have already seen. Our prayers are with everyone who is out there trying to deal with this extraordinary tragedy.

Ms PARKE (Fremantle) (12.08 pm)—I rise to add my condolences to those already offered in this place and to say that the thoughts and best wishes of the people of Fremantle, and indeed the people of Western Australia, are with those who have suffered and continue to suffer the effects of the Victorian bushfires. I commend the Deputy Prime Minister and all the speakers to this motion for their words from the heart in this place in the last two days, as particularly exemplified by the members for Bendigo, McMillan and Mallee. These speeches have been marked by grief, compassion, a love of the people and the land of Victoria and a sense of being in this together. I hope the spirit of bipartisanship in this place can continue beyond the immediate tragedy of the bushfires.

The toll of human loss and injury in the Victorian bushfires is appalling. Some of the stories are awful and some are awe inspiring. To see roads littered with the stripped hulks of cars that could not escape, to hear recorded on television what must have been only a fraction of the firestorm’s infernal roar and to see Marysville rendered into a flattened, ashen moonscape, the likes of which we associate with war: these are details of the disaster that will stay long in the memory. Each day the numbers and the pictures reveal more of the damage and we hear more stories that are hard to absorb for their freight of pain and suffering. But we also see the
magnificent courage of those caught up in the bushfires, the bravery of those still battling to contain the fires and the incredible compassion and support that has flowed in response from all over Australia and from across the world.

In his speech to the motion yesterday, the Prime Minister listed the many world leaders, including President Obama and the United Nations Secretary-General, who had contacted him over the past few days with messages of condolence and offers of help. The human story of tragedy and loss is one that all people, wherever they are, can relate to. As we speak, there are people similarly suffering through no fault of their own—from war, natural disasters and extreme poverty—all over the world. They share our pain and we share their pain.

There are some other aspects of this disaster that I wish to acknowledge. The fact is that fire is devastating to all forms of life. Animal suffering and loss of animal life have occurred on a large scale, and the full extent of it will never be known. Wildlife Victoria, Help for Wildlife, the Victorian Farmers Federation and the Department of Primary Industries are receiving reports of significant horse, cattle and sheep deaths as a result of the disaster. The department has mobilised teams to assess the impact on livestock of the fires and it will be working with the Victorian Farmers Federation to arrange emergency fodder. The loss of native fauna throughout the more than 330,000 scorched hectares can only be estimated, but it will have been immense. I know that RSPCA Victoria is also working with authorities to provide emergency care to wildlife, pets and livestock and is offering temporary animal accommodation in its shelters across the state.

In the circumstances that have confronted Victorians over the last week, many have lost beloved pets. In many cases, they were forced to leave them behind. The inability to save pets and livestock will have been one of the very sad, gut-wrenching aspects of the bushfire trauma. On Monday night I saw an interview on the ABC with Mr Stephen Collins, the assistant manager of two resorts in Marysville that no longer exist. Mr Collins had escaped the firestorm, taking with him half an esky of belongings, including socks, a camera and a tub of burn cream. At the end of the interview, he said how much he wanted to get back to Marysville to look for his cat, Stardust. We have also seen the tragic story of two sisters in Kinglake—Penny and Melanie Chambers—who died trying to save their horses.

Another more positive aspect of this crisis is the quiet, caring and efficient work of the volunteers and essential service and health workers who have assisted the affected communities in innumerable ways. As other speakers have done before me, I would also like to mention the contribution of ABC Radio to this emergency. As the disaster unfolded, ABC Radio was often the only source of information and support available to terrified people.

Also deserving of praise is the fast and decisive action of the Victorian and federal governments in mobilising relief efforts. During Hurricane Katrina, the people of New Orleans discovered to their detriment how ill-prepared, disorganised and incompetent governments can make a terrible situation worse. Thankfully that has not been the experience in Australia. It is to be hoped that the royal commission announced by the Victorian Premier will shed some light on the difficult issues surrounding the causes of this tragedy and the effectiveness of responses to it. But, whatever the specific findings with respect to the Black Saturday bushfires, this review will be of enormous assistance in guiding future preparations for and responses to extreme weather events, such as fire, flood and cyclones, which, sadly, are likely to become more frequent occurrences due to accelerating global warming. The Victorian bush-
fires constitute the most destructive natural event that Australia has confronted. As in so many
cases in our history, the worst is bringing out our best.

Mr TUCKEY (O’Connor) (12.14 pm)—Because of its importance, I wish to read part of
my speech today. I wish to first express my deepest sympathy for and commiseration with all
persons affected in so many ways by the disastrous Victorian wildfires. I wish also to endorse
the contribution of other members to this debate. I thank the Australian people for their gener-
ous and compassionate response to this tragedy. I thank all those who have fought fires and
provided all those other personal services in professional and volunteer capacities.

With matters like this, where such loss of life and property occurs, it is a responsibility of
this parliament to immediately commence the process of ensuring that it will never happen
again. The forest in Victoria is still burning, and without changed policy this tragic event
could recur in another state’s forest next week—tomorrow, if you like. Such a response from
authority is not uncommon in other areas during a period of grieving. There is no more fre-
cquently recurring disaster event within Australia than wildfire, yet the political establishment,
with one state exception, has failed dismally over the decades to address the problem. By the
extent of these fires, the tragedy level is increasing in both magnitude and frequency. I con-
sider, therefore, that I can best serve all Australians today by pleading through this speech for
the wider political establishment to act now with the practical responses that have been rec-
ommended by properly qualified and experienced persons to the probably 10 or more official
inquiries conducted over the decades into past wildfire events.

On 27 November 2003, I tabled one of the latest of those reports, entitled A nation charred:
report on the inquiry into bushfires, produced by a bipartisan parliamentary select committee,
and in doing so I made a speech, the content of which has equal meaning today. This report
followed the wildfire event that destroyed approximately 400 houses in Canberra and took
four lives. I referred to this conflagration as the first nuclear wildfire event. That is a line in
the sand for forestry wildfire. For the first time ever, houses were not burnt down; they were
blown away. The evidence given to the coronial inquiry—one of the many other inquiries and
reports that have been available to this parliament—referred to it as the equivalent of one of
the nuclear devices that were dropped on Japan during the Second World War. What this
means is of grave interest and concern to me.

There is an article appearing in today’s Australian that points out that 80 per cent of the
fires since Australia Day occurred in national parks and state forests, which are the direct re-
sponsibility of the political establishment. Some then go on to say, ‘Yes, but there weren’t
many trees where the houses blew up,’ thereby trying to create some argument that I wish to
refer to further: that fuel load was not necessarily the problem in the destruction of these
homes. A nuclear device at the point of impact occupies less than a square metre yet can flat-
ten a city. So, when in the burning of forest waste and trees full of eucalyptus oil you create
that explosive device its effect can be felt many kilometres away from the actual point where
it went ‘whoof’.

And what does that mean for suburban residents? What does it mean for the people who
have chosen, as they have every right to do, in my mind, to get closer to a forest or tree envi-
ronment—a tree change? The Australian newspaper yesterday carried a report from David
Packham, who, to use his words, has been ‘50 years in the business of forest management and
fire prevention’. I want to read a couple of things he said. He said:

MAIN COMMITTEE
The science is simple. A fire disaster of this nature requires a combination of hot, dry, windy weather in drought conditions.

And, as somebody in this place has said, of course that is aggravated by climate change. That is a possibility, and I do not want to argue it. He goes on to say:

It also requires a source of ignition. In the past, this purpose has been served by lightning.

I had a phone call from a person telling me lightning does not start bushfires, which shows how diverse and foolish this debate is in some parts.

In this disaster, lightning has not played a big part, and for this Victorians should be grateful. But other sources of ignition are ever-present. When the temperature and wind increase to extreme levels, small events—perhaps the scrape of metal across a rock, a transformer overheating or sparks from a diesel engine—

and, let me add, the deliberate efforts of an arsonist or some foolish person disposing of a cigarette butt. But let me say of that, which some use as a diversion to focus people’s thoughts on that single event, that the day we catch the last arsonist will be the day before we catch the last drug dealer. If we think we can fix this problem by the pursuit of despicable people alone, there will be many more deaths and much more property destruction. We must look at the broader attack. Mr Packham goes on to say that those small events:

… are capable of starting a fire that can in minutes become unstoppable if the fuel is present.

I make the comment, ‘No fuel, no fire.’ He goes on:

The third and only controllable factor in this deadly triangle is fuel: the dead leaves, pieces of bark and grass that become the gas that feeds the 50m high flames that roar through the bush with the sound of jet engines.

Fuels build up year after year at an approximate rate—

this is in the forest—

of one tonne a hectare a year …

And please remember that the forest fires have already reportedly destroyed over 300,000 hectares of forest. You can multiply that area by whatever level of debris was there, and that of course equals the fuel output that can be created by a nuclear device.

If the fuels exceed about eight tonnes a hectare, disastrous fires can and will occur. Every objective analysis of the dynamics of fuel and fire concludes that unless the fuels are maintained at near the levels that our indigenous stewards of the land achieved, then we will have unhealthy and unsafe forests that from time to time will generate disasters such as the one that erupted on Saturday.

When the *A nation charred* report was tabled in 2003, I made a speech which included these words:

Prevention is a better solution than burying four or six people around Australia—

and how miniscule that is, seven years later—

and wiping out 400 houses in Canberra alone. Let us look to history to find out how this might be done.

I then said:

Deputy Speaker Adams might be interested in what Abel Jans Tasman wrote in his logbook in 1642 when he was at the north end of Storm Bay, Tasmania. He talked about massive trees and went on to say:

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MAIN COMMITTEE
… the country was covered with trees; but so thinly scattered, that one might see everywhere to a great
distance amongst them … Several of the trees were much burnt at the foot …
In my speech I went on:
That was the forest that people say we are supposed to protect. But it is not the forest today … In West-
ern Australia in January it gets a bit hot; it is not exactly the time you would light fires. But William de
Vlamingh, commander of the Dutch ship Nijptang during January in 1697 at the Swan River recorded:
No men were seen but they observed many smokes …
That was in the electorate of Fremantle as we know it today. I went on:
The Aboriginals were burning in January with safety. Why? Because they burnt all the time, as recorded
by Governor Phillip, when he wrote in 1788:
… and they—
the Aborigines—
are seldom seen without fire, or a piece of wood on fire, which they carry with them from place to
place, and in their canoes.

The natives always make their fire, if not before their own huts, at the root of a gumtree, which burns
very freely and they never put a fire out when they leave the place.
Why could they walk away and not get fried? They could do that because they managed the
forest environment for fuel.

In the same speech I used another quote about the circumstances in America. This was
from an article that was published in an American ABC publication. It said:
With wildfires raging out of control in 13 Western states, Rex Wahl has seen enough. Like a peace-
loving homesteader who finally reaches for his six-shooter, the influential environmentalist has unhol-
stered his chain saw. Wahl is ready to cut down trees to save the forest.
I said:
There is an environmentalist looking out for the environment. I could go on to explain that he saw mas-
size destruction of 200 homes in a fire near his place. The article is interesting because it talks about
history. It went on:
A century ago … healthy conifer forests sprouted 25 to 70 mature trees per acre. Lush meadows filled
the gaps.
That is like the Tasmania of 1642. The article went on:
Today’s forests stand in cadaverous contrast. After a century of fire suppression, as many as 850 spindly
trees per acre clog the same forests. More than half stand dead, starved for sunlight and strangled by
insects that bore into them.
So the practice now followed in Australia is not good for trees. But we all might remember
that there were massive fires in America, and Australian firefighters went there to see if they
could assist. And when they returned it so happened that I was Minister for Forestry and Con-
servation, and I called a council of state forestry ministers. The New South Wales minister,
who I think now graces this parliament, was the only absent minister, although officials from
his department were present. I got them a briefing from this highly qualified firefighter, and I
mentioned it in this speech. He explained how in these nuclear style fires the ground is steril-
ised one metre down. The seeds are burnt out. There is nothing to regenerate, and as we will
discover very soon, when it starts raining in Victoria, in that region the soil is so destabilised
that it will rush down and fill the creeks and some of the reservoirs. It will have a very devas-
tating effect on Melbourne’s water supply.

When the firefighter left, I said to the ministers present: ‘What are we going to do about this? Are we going to get ahead of the game?’ To that, they replied, ‘We’d better put out a press release.’ I said, ‘And what are you going to put in the press release?’ ‘Well, we’ll have to buy more firefighting appliances and better uniforms’—to confront a nuclear event that could burn the seeds out of the ground for a metre. I said, ‘I thought we might like to focus on pre-
vention,’ thinking of that great old saying ‘prevention is better than cure’. There was deathly silence around the table, and they said, ‘What do you mean?’ I said, ‘Well, we’ve got to look at forest management, I think.’ They said, ‘Do you mean cutting down trees?’ I said, ‘Yes, that may have to happen to reduce the fuel load, to give access to the forest so we can put fires out before they become holocausts.’ One fellow said, ‘If it means cutting down one tree, we won’t do it.’ I hope that same person, if still living, is prepared to go up into the forest country of Victoria to explain to those people why they have lost their loved ones, because that is the outcome.

I eventually went on the Laurie Oakes show trying to get this message across at the time. I was attacked by the Australian Conservation Foundation, at a time when their president was a person who now occupies this parliament. They said I did not know what I was talking about. To quote them: ‘Australian native trees are naturally fire retardant.’ To that I replied, ‘Does that mean that in the future we can sprinkle woodchips on a fire to put it out?’

That is the standard and the status of the political debate in Australia. I plead with those here at the moment and those who might read this speech: we really have to think again. No fuel, no fire. Western Australia, as the member for Fremantle would know, had a dramatic event of this nature in 1961. In fact, numerous towns were obliterated, and it was all deja vu for me to see those images last night of stone and brick chimneys, the remaining monuments to a township. Those photographs can be found in the archives of the West Australian, going back then.

The nature of government in those days in Western Australia was different. I do not know which political party was in power, but it implemented a system known as prescribed burning, which was designed to reduce or in fact burn 20 per cent of the forest every year. David Pack-
ham in his article pointed out that after eight years you are in serious trouble, so a 20 per cent requirement is probably about right. That was practised right through the Second World War in difficult times. Then a campaign started amongst green activists that this was bad policy. There had been no wildfires in Western Australia since then and up until this moment—practically nothing of moment, and certainly not deaths and massive property loss. They have campaigned and campaigned, and now, as an article in the West Australian admits today, that rate is down to eight per cent if you are lucky. A responsible, caring, experienced officer spoke to me some years ago, when that campaign started—okay, the governments past and present in that state did not give in entirely, but what they did in concession to that campaign was to start to put in a mass of bureaucratic interventions based on Perth bureaucracy. This caring forest protector said: ‘You get up in the morning, bright and early, and it’s the perfect day for a safe, cool burn to better make the forest environment safe. But then you’ve got to

wait for nine o’clock for the office in Perth to open and see if they’ll let you do it, and by the
time you jump all the hurdles it’s getting closer to midday and the opportunity is lost.’

MAIN COMMITTEE
If you want further evidence of that sort of situation, you go to the reports of the state Forest Department of New South Wales and the national parks and wildlife group, whatever they are—the environment department. You will find that the forest people were maintaining 15 per cent in area of hazard reduction, whilst in the same period parks and wildlife, that had been progressively taking all the parks and reserves from the forestry department, had got down to 0.5 per cent and were proud of it. As this report will tell you, roads that were constructed to put the fire out during the conflagration up here, that wiped out Australia’s oldest observatory and blew up 400 homes, were immediately ripped up by these same people as soon as the fire went out.

There are two things that must be done to make the forest a safe environment, and if I were talking about occupational health and safety the responsibility of the owner or manager is paramount. The first is to commit to a comprehensive fuel reduction program throughout the forest industry of Australia. The second is to properly enhance the response. As has been reported, a water tanker and some very courageous and dedicated people is no response even at the urban interface to this nuclear fire. They cannot do it and that response is too late. There is nothing you can do there in this context. In others, it is, and if you lower those fuel levels the tanker becomes more effective again.

In the days when Australians thought they should harvest their own forests rather than exploit those of Indonesia, the equipment and the expertise existed within the forest products industry. Then the Australian people supported political parties that said, ‘We want no more of that. We will go on using sawn timber and paper as long as it is made somewhere else.’ Okay, I will not object to that, but in those days there was a very comprehensive observation procedure. And why was that? Because they do not want their trees burnt down. They have an economic value for forest industry people.

Secondly, their road network was typically and deliberately destroyed. That road network provided immediate access to the fire and, hopefully, an environment where the debris was not that thick, and heavy equipment—D9s and D10s, bulldozers and big excavators—was rushed out there and was often able to push the fire in on itself so it did not become a nuclear device that was going to race towards urban communities at 100 kilometres an hour, even when there were no trees left to carry it.

State governments should not continue to make political mileage out of this situation. The Premier for Victoria announced some more national parks just recently, no doubt in some trade with the Greens over preferences, yet the ones he has been responsible for produced 80 per cent of these wildfires.

The situation was described to me by one of the lawyers assisting the coronial inquiry. He said, ‘Mr Tuckey, did you know that in this region we have no large bulldozers and we have nobody who understands moving them in a forest?’ I said: ‘Well, if you have no industry, do you think those people are going to wait around for a bushfire? They’ve all gone to the mining company or somewhere where their expertise is welcome.’ In that situation, government, following their policy, have only one choice: to re-implement appropriate hazard reduction and to put within, or immediately adjoining, these forests an adequate road system and equipment. They park a few crop dusters at the airport as a response. That does some good, but not much. They should have 200 or 300 people employed for each major forestry reserve and a large amount of equipment on call 12 months of the year. When they have spent that money, they
may have to tell the community that they are a bit short on for schools and hospitals, but that would be a political choice that I would not criticise. But they cannot go on getting the warm and fuzzy feeling of creating these reserves when they are turning them into deathtraps. That is the situation as it exists today, and I owe it to the people who are suffering this day to say something about it.

Having used this time as I have, I should now cease. But I hope that the member for Fremantle, after hearing these words, sees that her idea that we were better prepared than the people of New Orleans is hardly justified by the disaster we have just experienced. We have had reports throughout the last century, and we are going to get another one. Let me tell you what is more than likely going to happen unless we do something about it. We are having our valedictories, and so we should. As the death toll and the people involved are better known, someone might, properly, propose a memorial in the Great Hall. I would have no criticism of that. Then we will have an inquiry of sorts somewhere.

Ms George—A royal commission.

Mr TUCKY—A royal commission. That might be helpful because when this report was conducted by this parliament, not by the Howard government—in fact, John Howard did not want it—it said a lot of things which were good advice, but the governments of two states, New South Wales and Victoria, forbade their public servants from coming and providing the expert evidence that might have helped. They said it was because they were too busy, but they all turned up in the gallery with notebooks and took notes of the names of poor individuals who had the courage to attend independently and advise the parliament on how we might fix the problem. At least a royal commission could give protection to those witnesses, and I hope it does. But it will be meaningless. There have been royal commissions before. They are all there, all stacked up somewhere; this book just happens to be one of the last, and we have done nothing about it. To the contrary, we discover today in the media that one local government authority was forcing people to plant trees around their houses as a condition of building them. Someone can say, ‘It’s Tuckey playing politics again.’ I have not mentioned a name, and I certainly do not lay the blame on this government or the Labor Party. As far as I am concerned—I published an apology yesterday—I am equally complicit, because I gave up after this report gotchucked in the wastepaper bin by our government. I should not have. I think some of those people would still have died. There would have been a very nasty fire, but it would not have been a nuclear event, and I think the expert opinion I have quoted supports me in that.

Thank you, Madam Deputy Speaker, for the opportunity I have just had. I hope we, the members of this parliament, can move on appropriately from the grief we are now recognising so properly and come up with practical and simple solutions. Maybe—and I did suggest this once—because of the federal nature of this problem we should have an inspectorate of safety for the forest. And maybe we should not give states natural disaster funding, which is a form of insurance, if they deliberately create an unsafe environment, because that is what it is. If it were an OH&S jurisdiction, there is no doubt what people would be saying in this place today.

Mr KERR (Denison—Parliamentary Secretary for Pacific Island Affairs) (12.45 pm)—I am not religious but the Bible has a passage that I think is apposite to our circumstance, which is that ‘to everything there is a season’. I think this is the season for us coming together as a
community and sharing our respect for those who have acted in this crisis to protect the life, limb and property of those who are under threat, to grieve with those who have lost and to come together as a community as best we can to work through how we can, with good sense, move forward into the future.

I might say some words from my own perspective because I know that the wounds that will have been opened up will not close quickly. The member for O’Connor mentioned the 1961 event in Western Australia. I am, for my sins, old enough to remember the 1967 fires in my state of Tasmania. It was the first year I went to high school, Claremont High School, which had only three years of students as it had just opened. The school was closed at about noon because the skies had become blood red and it was plain that the whole of the city of Hobart was burning. We were not sure how the young kids from the primary school would get home, so many of the high school kids went down and walked the primary school kids home, some to homes that no longer existed by that time.

One of my friends from high school lost their father in that fire and I know that others, including a parliamentary colleague of mine in the lower house, lost their homes and all the photographs and possessions that go with family memory. In my own circumstance we were very fortunate. The fires reached down to the back fence and my grandfather put them out with a hose. The white fence down the back was scarred by those fires, and we were an awful long way from the nearest tall trees—at least 800 metres, perhaps more.

The fires raging down the valleys and the mountains above the city of Hobart created the firestorms, the rolling fireballs and the vacuums that we hear of. The member for O’Connor says it is a new thing that houses explode, but if you go back to the testimonies of those who experienced and lived through the 1967 fires you read that people saw houses literally explode in front of their eyes in those circumstances. Sixty-two people died there, and it affected many thousands of families. Many, many more people lost their homes, their property and their pets. Entire small towns were essentially wiped off the map, but the fires had their effect right across the whole of the community.

I suppose that explains the generosity of the Tasmanian community in responding to these events. It has become known that federal members are collecting clothing and footwear to be made available to those in Victoria who have lost their clothing and footwear as a result of these fires. I have seen some pictures on the Facebook pages that members operate, mine included, which show that our offices are being filled with generous donations of everything from blankets to clothes and footwear, reflecting the fact that everywhere across Australia the fires are being seen as an event that we have to respond to personally. I have had many messages from people indicating that they wish to give blood. I hope that intent continues not just during this week but into the weeks that come because the burn victims will continue to require transfusions for weeks, if not months and perhaps years, to come. I hope the first instinct that leads people to make these decisions continues over time so that instinctive generosity is followed through in a way which enables those who have suffered so horribly to have the supplies of blood products they will need.

Like everybody else, I want to share my sense of a sheer lack of understanding as to how people have the resilience and the courage to continue to exist through these experiences and to work and survive and go on when they have lost their children or their possessions or they

MAIN COMMITTEE
have seen their friends and families lose theirs and yet they are out there still working and still contesting against these terrible events of nature.

I am hesitant about going into the next stage of discussion, which is about the royal commission and the like and to look at steps we would wish to take, as I think it is more appropriate for it to be left to a period afterwards. I really do hesitate. I have no doubt that the member for O’Connor has come to this debate with great passion. He has argued his case before and he is entitled to take the view that this is the time for him to advance a case as to how we should proceed into the future. But I really do not think it helps us as parliamentarians or the community to have intruding into this phase of our debate, when events and emotions are so raw, a context of blame whereby someone says something to the effect that those who stood in the way of the policy proposals that the member for O’Connor has advanced have blood on their hands and are effectively responsible for these events. There are significant issues that we will have to look at by way of how to respond to these events. There is no perfection in our parliament. There is no perfection in our states. We can always improve our learning. It may be that, through this process and the royal commission, we will develop new methodologies and approaches—and I am quite open to those possibilities—but I do think that we need to be wary of a debate where we seek to find within our society those to blame and victimise as if these great events are their responsibility.

We cannot completely engineer ourselves against grief and destruction in this country. Dorothea Mackellar, in her poem about Australia which we know from childhood, talks about the ‘beauty’ and the ‘terror’ of this great brown land of ours and speaks of fires, speaks of floods and speaks of all the natural catastrophes. We cannot engineer our way out of the crises that the people in Queensland are facing through flood. We cannot make certain that no-one will face that most horrible of events, facing a fire not prepared properly for it, because you cannot prepare properly for some of the great events of the kind that we have seen—the Tasmanian fires in 1967 or this terrible set of fires. There is no circumstance that some of those people could have been in that would have immunised them from the harms that befell them, their pets, their animals and their property.

If I can go back to the starting point, when I said that there is a season for all things, this is a season for us to recognise what so many outside of this parliament have seen in us. It was exemplified in the email that the Speaker sent around. They saw in the Leader of the Opposition, the Deputy Prime Minister, the Prime Minister and so many of the people who spoke on both sides of the House—they were marvellous speeches which actually showed us as humans—the capacity for compassion and understanding of each other in that rarest of circumstances, where we do not seek to attribute blame but simply to understand the grief and loss that each of us is facing as fellow members of a common community.

We can pass on to those other debates at a future time. In my view, that is the time and the season for that. I think that we have set up appropriate mechanisms to make certain that sensible debate can occur in that framework and that we can learn any lessons that we need to learn. But I do not think it is appropriate for me to engage with the member for O’Connor on behalf of those to whom he has attributed blame and to respond to his remarks. I do not think it would help this parliament and the regard and stature in which it is held by the community if suddenly, instead of the manner in which we have been debating these events, we start arguing amongst ourselves about those circumstances, and so I decline to do so. I decline to do so.
deliberately, but I also recognise that the member for O’Connor—and I think I should recognise this—no doubt believes that equally it is a time and a place to do what he has done. I think that, whatever else the member for O’Connor is, he comes to this debate with sincerity and passion. I just think that his judgment and timing is inappropriate and unhelpful; and therefore I do not want to engage in a debate which would then lead others to participate and distract us from what I think is our primary responsibility.

This morning in the *Age* there was a very interesting article by Andrew Macleod about how we can further move towards rebuilding. I would commend that article to our policymakers for examination. Andrew Macleod is a man who has played a large role in the United Nations and in international restoration efforts at many incidents, such as the earthquakes in Pakistan, and he currently has a leadership role in disaster relief and reconstruction in the Philippines. He occupies what is probably one of the highest roles in the international community now held by any Australian—the member for Fremantle, Ms Parke, having left her role with the United Nations. That article is worth looking at. It is worth us reflecting on what we have by way of common ideals within this debate. I appreciate that those who may listen to or read about this debate may see it as if it has, as a result of earlier contributions today, slightly moved from the rails that it was on. I hope that we all understand that there is no single way that some 150 parliamentarians will see the world but, in this instance, I think that about 148 of them see it in the same way and there are one or two who do not. I will be content to stand with the many on this issue and say that the many come together in great respect for those who are still facing the threat that the bushfires in Victoria represent. Fires are still burning as we speak, and we come together to acknowledge and to grieve for those who have suffered loss. I thank the House for its indulgence to permit these remarks. I know that every Tasmanian shares common sentiments, because Tasmania of all places experienced similar events in the living memory of those over the age of 45. For many of their children and grandchildren, those events are still vivid by way of others’ recollections.

**Ms GEORGE** (Throsby) (12.59 pm)—I move:

That further proceedings be conducted in the House.

Question agreed to.

Sitting suspended from 1.00 pm to 4.01 pm

**AVIATION LEGISLATION AMENDMENT (2008 MEASURES No. 2) BILL 2008**

Second Reading

Debate resumed from 5 February, on motion by **Mr Albanese**:

That this bill be now read a second time.

**Mr IRONS** (Swan) (4.01 pm)—I rise today in support of the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008. Over the last few days, parliament has had a strong united voice in its resolve to help the victims of the Victorian bushfire tragedy. It is heartening that, whilst we can disagree passionately in this place on some subjects, on issues of national emergency and crisis we can stand together as one. There is always more that unites us than divides us.

September 11 2001 was one of these occasions for the American people—2,974 people died when terrorists evaded security and turned passenger jets into flying bombs, destroying the twin towers in New York City. The shockwaves reverberated around the world. One of the
consequences of this tragedy was the marked tightening of security at airports in America and across the globe. Australia also played its part.

In the years following 9-11, the Australian government has invested $1.2 billion in enhanced aviation security. This has included the expansion of screening for passengers and checked-in baggage, the improvement of security in the air cargo industry and Air Security Officer Program, which placed sky marshals on select domestic and international flights. It is important that improvements to physical security are complemented by legislative improvements to processes surrounding aviation security. This is what this bill provides for.

I have an active interest in this bill, given that the fourth largest airport in the country, Perth Airport, is located in the north-eastern part of my electorate. Perth’s airport holds a special significance for the people of Perth. Being the most isolated capital city in the world, air travel represents the only realistic form of transport for those wishing to travel outside WA.

Recent figures from the Bureau of Infrastructure, Transport and Regional Economics suggest that 92 per cent of journeys between Perth and the east are made through Perth Airport. In recent years, passengers’ use of the airport has increased by dramatic and unforeseen quantities. In the last five years, the number of domestic passenger movements at Perth Airport has increased 82 per cent—13.6 per cent in the last financial year. International passenger numbers have also exploded, increasing by 13.1 per cent in the last financial year.

There are several reasons for this. All members will be aware of the mining boom that has been the engine of the state’s, and indeed the nation’s, economic growth over the past decade. Mining companies have utilised Perth as a labour source, establishing fly-in fly-out traffic. Testament to this are the 2,223 people employed in the mining sector at the last census in my suburban electorate of Swan. The number of people using the airport for work related purposes has therefore increased across Perth.

Another result of the mining boom has been to create a more affluent WA, and a more affluent population has enjoyed more time travelling. The unprecedented increase in passenger traffic through the airport has put infrastructure under significant pressure. Despite this, Perth Airport has played its part in upgrading security. It has completed a $6.2 million baggage-screening system in terminal 3 for all check-in baggage on domestic flights in order to meet government regulations. However, we must continue to be vigilant and we must do more, as Australia continues to be a terrorist target.

There are measures which we should be taking to improve security, and this bill goes some way to achieving this. The legislation allows for amendments to the Aviation Transport Security Act 2004, the Civil Aviation Act 1988 and the Transport Safety Investigation Act 2003. The legislative amendment to the 2004 act allows the secretary of the department to collect additional security information. Knowledge is power, and it is right and proper that the department has this additional security information so that the officials can make informed decisions quickly in the interests of safety and security. We do, however, have a responsibility to ensure that this does not create unnecessary costs for the industry. This bill has no financial impact on government expenditure; therefore, presumably, the full cost will have to be absorbed by the industry. The government must ensure that this is treated sensibly, especially given the current economic climate.
The legislative amendment to the 2004 act provides for the secretary to delegate any or all of his or her functions to another agency head or equivalent, whose responsibilities include functions relating to national security. In the event of an emergency such delegation may, depending upon the scale of the crisis, be imperative. An effective response may depend upon the secretary appointing another senior figure in a better position to devote more time to a specific response issue. It avoids the specific lack of decision-making capacity.

The legislative amendment to the Civil Aviation Act 1988 provides for the copying and disclosure of aircraft cockpit voice recorder, CVR, information for the purpose of testing its functioning and reliability. This was a result of the Australian Transport Safety Bureau’s investigation into the Lockhart River air crash of 2005, where a CVR was found to be faulty and no audio recovered from the recorder could be confirmed as having been recorded during the flight. All 15 passengers on board were killed in that tragedy. At present there are strict confidentiality requirements to ensure the continued availability of CVR information for no blame accident and incident investigations under the Transport Safety Investigation Act 2003. This bill will allow for the copying and disclosure of the cockpit voice recorder information, which will enable faults to be discovered and dealt with more easily.

Finally, amendments to the Transport Safety Investigation Act 2003 carry my support. The minor amendments remove the one-year time limit for prosecutions relating to the failure to report on immediately reportable matters—IRMs. That is sensible, given that it can take years for unreported incidents to be discovered. I am confident that these legislative security measures will be effective in Western Australia. My immediate concern for the future is ensuring that the government and Perth Airport complement these initiatives by continuing to improve physical security infrastructure.

I was disappointed to read in the *Australian* newspaper this morning that the number of armed air marshals protecting Australian aircraft has been cut by almost one-third due to budgetary cutbacks. The article suggests that there will be fewer than 100 specially trained air marshals left. The $55 million a year program commenced in December 2001 as an important component of physical security. I urge the government to retain this program fully. I would ask: has the government received advice from national security agencies that it is safe to make these cuts?

The upcoming $1 billion development project at Perth Airport provides a good opportunity to ensure Perth Airport has world-class security arrangements. The $1 billion redevelopment project involves moving the domestic terminal to the international terminal site and creating Terminal WA for intrastate flights, which have been a significant cause of the increase in passenger usage. Terminal WA, under construction now, is the first phase of the project and is set to be completed by late 2010. It will be a flexible terminal able to respond to the short-term contracts preferred by the mining sector. The project is expected to reduce the number of passengers at the domestic terminal by 1.2 million per year, especially during the 5 am to 7.30 am peak period. This will ease the current pressure on infrastructure at the domestic terminal, which any recent visitor to the terminal will have experienced. A draft major development plan for Terminal WA has been released, and I can assure the House that I will be seeking assurances in my submission that security arrangements at the new terminal will be world-class.

I understand that the project to build Terminal WA will also involve a review of the airport’s tributary roads. Therefore I will also in my submission urge the airport to include in its...
plan an upgrade to the Great Eastern Highway, as promised by both political parties at the last election. Members will recall that I have spoken about the need for an upgrade of this road in the past. Finally, in addition to security and roads, I will in my submission urge the airport to properly inform and consult with the local community that will be affected by changes in noise pollution resulting from the changes in the airport location. I have played a role on the Perth Airport Noise Management Consultative Committee since being elected as the federal member for Swan.

In conclusion, these legislative security amendments are, combined with physical security infrastructure improvements, an important part of Australia’s response to the threat of terrorism. I will be working with the airport to see that their impressive expansion over the coming years includes such measures, and I would urge the government to also continue to invest in this area.

Mr ZAPPIA (Makin) (4.11 pm)—I too rise to speak in support of the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008. Forty-nine million passengers each year use Australian domestic airlines and the numbers continue to rise. Aviation travel has become an essential service for commuters and for Australia’s economy. Since 1943, when statistics began to be collated, there have been over 14,000 aircraft incidents recorded around the world. Of those, over 11,000 were accidents. Criminal offences, sabotage, terrorism and other occurrences accounted for around 3,000 incidents. As a proportion of the total number of flights that have taken place over that period of time, those figures represent a very small percentage, but in raw numbers the figures are substantial.

More concerning is that aircraft have all too often become targets for terrorists. I was interested to hear only this morning the member for Brisbane’s presentation of the report of the Joint Standing Committee on Intelligence and Security. The matters that he raised certainly confirm that terrorist activities are still out there and that we ought to be on alert at all times because of that. I will come to that later in my submission today.

Mr Slipper—Mr Deputy Speaker, under standing order 66A, I ask the honourable member: is he prepared to give way so that I can make an intervention in this debate?

The DEPUTY SPEAKER (Mr KJ Thomson)—Is the member for Makin prepared to give way?

Mr ZAPPIA—I am happy to do that.

Mr Slipper—I listened to what the honourable member said about the importance of airport security. I draw his attention to the article in the Australian today about air marshal numbers being cut. I would like his view on whether the cutting in the number of air marshals is going to assist aircraft security.

Mr ZAPPIA—I take on board the question that has just been put to me. I have not read that report so, at this stage, I cannot give a specific response to it. However, I am certainly concerned about airport security. On that basis I will continue my remarks on this bill. When anyone boards an aircraft they place their complete trust in the airline and aircraft crew. If problems arise, passengers are completely reliant on the safety procedures that have been put in place by the airline industry and by the government. It has become evident that those procedures, other safety systems and precautionary measures in place must be strengthened.
The Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008 is important because it improves aviation safety on two fronts. Firstly, it strengthens Australia’s national security procedures in respect of the aviation industry, with particular reference to antiterrorist arrangements. Secondly, the legislation improves general aviation safety by requiring airline operators to report incidents which may identify a possible safety issue relating to the aircraft. Importantly, the legislation doubles the penalty for failing to report an immediately reportable matter from six months to 12 months imprisonment. The significance of that amendment is that it will immediately remove the current statutory 12-month limitation period for prosecuting that offence, thereby closing a loophole that could presently prevent a prosecution.

It was that loophole that prevented any prosecution with respect to the Lockhart River airline accident in 2005, in which all 15 people on board a Transair Metroliner died. An Australian Transport Safety Bureau investigation showed that Transair had failed to report 25 safety incidents in the two years leading up to the crash. Seven were serious matters, such as the cabin pressurisation warning. The likelihood of prosecution will, without question, raise the compliance level of aircraft operators within the airline industry. This is an important change in the legislation. The increase in the imprisonment period from six to 12 months, I believe, will make a lot of difference in ensuring that the compliance that we all expect and believe ought to be out there is actually carried out by those who operate aircraft. The additional amendment which arose from the Lockhart River investigation relates to amending part IIIB of the Civil Aviation Act to allow the copying and disclosure of cockpit voice recorder information for cockpit voice recorder testing and maintenance.

Because of the global financial crisis, it is inevitable that the airline industry will also be financially affected and will look to cut costs. We saw that even before the global financial crisis was exposed last year, with aircraft maintenance standards being questioned. In fact, the Civil Aviation Safety Authority released a press release on 1 September last year alluding to concerns that they had in respect of some maintenance procedures. At the time, I wrote to the authority to ask them what procedures and processes they had in place. I thank them for the response that they sent me, which certainly assured me that they had all of the appropriate procedures available to them in place at the time. The amendments in this bill relating to both the reporting requirements and the cockpit voice recorder information will ensure a greater level of accountability on the part of aircraft operators and thereby lead to an increased level of confidence in the industry by passengers. Maintenance standards need to be upheld, and the ability of authorities to ensure that maintenance standards are being upheld will be greatly enhanced by this provision.

I now turn to the issue of aviation safety and security procedures for airports and aircraft. The events of 11 September 2001 in the US have forever changed aviation security arrangements around the world. Regrettably, but by necessity, they have caused additional inconvenience to the majority of travellers, who are law abiding. What the security arrangements have similarly brought is considerable peace of mind to airline passengers. Again, it has become clear that, as a result of changing circumstances, the existing security arrangements should be strengthened, and that is what these amendments do. Firstly, the limited scope under which the secretary can collect security compliance information needs to be expanded. The kind of information that may be requested by the secretary will be prescribed by regulation. Secondly, the secretary needs to be able to—and, under these amendments, will be able to—delegate his
powers and functions under the Aviation Transport Security Act to certain employees within the department. Why this was never allowed in the act surprises me. It seems to be a common-sense provision.

Regrettably, we live in times when terrorist actions are all too frequent. Terrorist acts have already cost the lives of thousands of innocent people, including two people who are personally known to me; one being Andrew Knox, who was in the twin towers building when it was attacked on 11 September 2001, and the other being Angela Golotta, who was killed in the Bali bombings of 2002. Both were young people with promising futures ahead of them, both were completely innocent victims of terrorist acts and both died horrific deaths. I have spoken to the family members of both of those people on occasion and, whilst I certainly do not want to go over the events of the time, I can say that neither of the two families have ever recovered from their deaths. It is one thing, perhaps, to lose your life in what we might consider normal circumstances, but it is another to lose your life in horrific circumstances where you truly are an innocent victim of the circumstance.

We will never be able to absolutely guarantee the safety of airline passengers, regardless of what measures are implemented. There are many other things that perhaps need to be done and should be done and I am sure, in time, as they emerge, they will be done. Having been the mayor of the city in which the Parafield Airport is located, I am aware of two separate incidents which could have ended up in absolute disaster. In one, one of the aircraft was sabotaged. Fortunately it was not able to get off the ground because of the extent of the sabotage. In another, the aircraft in fact did crash after having left the ground. It landed on a main road at a busy time of the day. For some miraculous reason, it did not hit a car or anyone else who was on the road. Both of those events could have been prevented, and I have to say that the airport authorities in that location immediately took steps to try to ensure that such events would not occur again or at least that it was far more difficult for them to occur again. We can never absolutely guarantee safety, but, where we are aware that there are perhaps deficiencies in the processes and the precautions that we have taken, we have an obligation in the interests of the community that we represent to do something about it. This amendment bill does that, and for that reason I commend it to the House.

Mr SIMPKINS (Cowan) (4.22 pm)—I would like to take the opportunity today to speak on the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008 because this is an area in which I have long held an interest. Shortly after I graduated from the Australian Federal Police College at Weston Creek, as it was in those days, I undertook my probationary training in Sydney. Amongst a range of very interesting rotations, I spent some time at Sydney Airport, working primarily at the international airport and in the ports watch section. That was in plain clothes and armed. From that time in 1986 and 1987, I developed a very good knowledge of the workings of the airport. I knew where all the entry points and the security points were. I drove on the tarmac and walked out underneath aircraft at various times. I boarded international flights in response to passenger immigration alerts where Family Court rulings prohibited children being taken overseas. I therefore had a very good knowledge of the shortcomings and the problems of the time.

 Appropriately, airport security has moved on, and the Australian Federal Police has substantially moved on. In the AFP, we were limited in so many ways.
In budget, premises, equipment and training, and certainly by reputation, the AFP is a completely different organisation now than it was then. In my opinion, the previous government turned the AFP around. The Howard government believed in the need for the Australian Federal Police and the capabilities that were required and are now possessed. I believe that the federal government before the Howard government did not have the imagination to do what needed to be done, yet we now have the effective and highly professional crime-fighting and security organisation that exists today. I hope that its work is never again undermined by lack of government will, as it was when I served.

Of course, any discussion on aviation security cannot be advanced without putting the AFP in the debate. However, this bill is about aviation security information, the relationship with aviation industry participants and the ability to delegate powers and functions. This bill will amend the Aviation Transport Security Act 2004, the Civil Aviation Act 1988 and the Transport Safety Investigation Act 2003.

I will begin with comments regarding the amendment of the Aviation Transport Security Act 2004, and I would like to look back to 2005 to clearly put the issue of aviation security in the right perspective. That perspective is that the hard work was done years ago and that this bill is finetuning in comparison. Members would be aware of the Aviation Transport Security Act 2004 that came about to address the risks and threats in aviation security following September 11. Beyond the good work of that act, there was also the Wheeler review and the Aviation Transport Security Amendment Bill 2006. That bill primarily targets security and clearance processes for domestic and international cargo before it is taken on board an aircraft and gives the Secretary of the Department of Transport and Regional Services approval authority for alterations to an existing transport security program.

Members would also recall that it was in June 2005 that the then government asked Sir John Wheeler, the former security minister for Northern Ireland, to conduct a review of Australia’s airport security. Wheeler had already conducted a similar review in the UK. The Howard government directed Wheeler and a small team to examine the threat from serious and organised crime at airports, the integration of ground based security and law enforcement arrangements and the overall capacity of the existing security systems. The review commenced in June and was presented in September 2005. As directed, the report focused on responses to the threat of terrorism and clearly related serious crime threats at airports. It identified coordination deficiencies across all levels of governments and agencies and a related lack of security awareness amongst airport workers. Policing at major airports in Australia was found to be often inadequate. Demarcation and dysfunction, in general, marred the security systems. It was little wonder that the review found problems of bureaucratic turf protection and unresolved Commonwealth-state conflicts over resources. Changes were needed, with an emphasis on intelligence sharing, addressing the potential overlap between terrorism and crime and, therefore, the clear need for staff at airports to be vetted.

Key among the recommendations was that there should be a permanent police presence at the major airports, under a single airport police commander and, not surprisingly, there were other recommendations related to an increase in CCTV coverage, coordination of CCTV coverage of all international airports and a tightening up of the aviation security identification card system. It was from the Wheeler review that the deficiency in cargo screening was highlighted, where 20 per cent of cargo could be loaded without being screened. The Wheeler re-
view described the Aviation Transport Security Act 2004 as providing a ‘solid basis for security regulation at airports and associated activities’. However, it was clear that a substantial review of the existing legislation and regulations was necessary. The review recommended that collaboration between the states and territories would enable a more effective system that would help in the flow of intelligence and deal with the threats of both organised crime and terrorism and the potential overlaps between them.

Therefore, it would seem that, while the post 9-11 changes served Australia well, more was needed. The Howard government accepted, in principle, the recommendations made by the Wheeler view and immediately announced additional expenditure of almost $200 million to further tighten security at Australia’s 11 major airports. It was shortly after that announcement that Minister Truss introduced the Aviation Transport Security Amendment Bill 2006. The bill addressed regulatory arrangements that would apply when a security controlled airport conducted special events or, as they are described in schedule 1, ‘out of the ordinary’ events, such as major governmental conferences like APEC or a visit from the Pope. In addition, the bill addressed the better handling of domestic and international cargo prior to loading. Schedule 2 of that legislation was designed to increase the number of cargo operators controlled by the regulations and increase the screening of cargo to 100 per cent.

It is not, and it has not been, my intention to cast doubt on the validity of the amendments in the bill before the House. I do believe that it is valuable for the secretary to be able to collect information that currently falls outside the scope of security compliance information. As the explanatory memorandum refers to, such additional information will enable assessments to be made as to what new security measures are required or what existing security measures need to be modified to address threats to the security of aviation. An assessment of the incidence and statistics in general of security operations such as screening would provide a very useful tool from a process and intelligence perspective.

I am also particularly happy about proposed new section 112, which would require a person to give aviation security information. The reason of self-incrimination could not excuse them from providing that information. That is a good power to be applied when approaching the need to continuously improve aviation security, but it should not be applied when the need to proceed with a criminal prosecution is evident. I am confident that the professional and dedicated agencies involved will balance these priorities carefully. I also agree that the secretary must be able to delegate powers under the ATSA to a head of another agency that is responsible for national security matters. I would also be interested in hearing which agencies would receive such a delegation of powers and when that would occur.

Although the secretary currently has the power of delegation to an SES level officer within the department, proposed subsection 127(1) will allow delegation to other agencies with national security responsibilities, and I support this change. The explanatory memorandum mentions the secretary’s powers in the ATSA under section 74D, which allows the secretary to issue an incident control directive to require an aircraft to undertake a particular action. This enables the secretary to determine whether the aircraft is under the control of its authorised crew or has been seized. The delegation of this power beyond the department would speed up the flow of information and enable critical decisions to be made more quickly. Beyond amendments of the Aviation Transport Security Act, the Civil Aviation Act 1988 would also
be amended by this legislation. I support the changes that would insert provisions into the act allowing aircraft cockpit voice recorders to be copied and disclosed.

Finally, this bill will amend the Transport Safety Investigation Act 2003 to strengthen the powers of the ATSB, increase penalties and enable the ATSB to prosecute the failure to report an aviation incident up to six years after the commission of the offence, extending the current 12-month limit, due to the time it can sometimes take for some offences to be brought to light. As I have previously stated, I have a long-term interest in aviation security. I also have a very keen appreciation of what needed to be done and what was done in the past. I therefore pay tribute in this forum to the efforts of the Howard government in pushing aviation security in this country forward.

I also acknowledge the benefits that this bill will bring, but the threat to the Australian Federal Police posed by the upcoming audit worries me. The Howard government greatly advanced the interest of national security by properly resourcing the AFP and other agencies. The Rudd government should not, with a funding cut, turn the clock back on front-line policing and the range of critical tasks that the AFP now can accomplish. Clearly an example of this is today’s revelation in the Australian that, from a high point of 170 air security officers under the Howard government in 2006, under the Rudd government there are now fewer than 100. The question is: is the threat any less clear now? Not at all. But the Rudd government’s record with AFP cutbacks is becoming clearer, and I worry for the future.

Mr CHEESEMAN (Corangamite) (4.32 pm)—It is a great pleasure to be here today to participate in this very important debate. I will get to the detail of the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008 in a minute. The context is that it shows just how much attention we give to the detail of our aviation industry. In Australia we are constantly trying to improve and refine our aviation industry. We are constantly trying to make it safer. We are constantly trying to make it more efficient. We are vigilant about improving regulation, governance arrangements and the necessary security protocols within this industry—and we obviously should be. The risk in this industry can be very high. If we sit back and look at the bill in context for a moment, it shows a little about the approach that this government takes to aviation. It says we must have a very healthy attitude that will lead to continuous betterment of this industry and the security measures associated with it.

Mr Slipper—Mr Deputy Speaker, pursuant to standing order 66A, I ask whether the honourable member would be prepared to give way so I can make an intervention in accordance with the standing orders.

The DEPUTY SPEAKER (Mr KJ Thomson)—Will the member for Corangamite allow a question?

Mr CHEESEMAN—No, I will not. We are constantly searching for excellence in running this industry, and that is certainly what this government is all about.

I want to put on record that I am proud of the Australian aviation industry’s record, particularly its record on safety, and I would like to make some detailed observations about the history of aviation, particularly over the last decade. We have seen very substantial risks and loss of life within the aviation industry. My mind turns to September 11, when we lost many lives in the United States and many Australians, of course, as a consequence. We have seen, in
more recent times, planes having to land in watercourses in the United States. We have also seen, within the Australian context, threats and risks in Darwin.

The Civil Aviation Safety Authority plays a very significant and important role in ensuring that we have extremely safe skies. In Australia, with our civil aviation authorities and government intervention, we see very strong regulatory arrangements that have been in place for a very significant period of time. We will continue to strive to ensure that we have extremely safe skies.

In the Australian context, we have thousands and thousands of people, each and every week, flying from one destination to another, whether it be for holidays, for commerce or to catch up with family and friends. This government will do absolutely everything that we can to ensure that the statutes and the regulations are appropriately in place to protect those that use our aviation industries, and I will continue to support every effort to ensure that we do that.

In my own backyard we have Avalon Airport, which is in increasingly playing a very important role in domestic tourism. The community that I represent, a community that has substantial tourism assets, is increasingly keen to see Avalon play a role in international tourism. Of course, that potentially brings a whole raft of new and difficult challenges that we will need to manage in accordance with all of the statutes that are in place and should be in place. When you open up a new airport, when you bring new people from different parts of the world to any airport via an airline, very clearly there are substantial risks that must be managed to ensure the safety of the airline public. When I reflect on the efforts that this government has made in the last 12 months, I think some very substantial and worthy debates have taken place in this parliament around some of the legislative arrangements that we have chosen to put in place.

This bill contains a number of enhancements to the Aviation Transport Security Act 2004 and the Civil Aviation Act 1988. These arrangements, I believe, will provide for a safer public and a safer opportunity to use our airports and our airlines and will ensure the safety of the flying public. This government will keep striving, along with our partners in the airline industry and all of the authorities that play a very important role in protecting the wellbeing of the Australian flying public. All our partners—whether it be the aviation transport authority, CASA, state police or the Australian Federal Police—continue to make a valuable contribution to the safety of our flying public.

In conclusion, I would like to thank those who have played a very significant role within the aviation authority, the Federal Police, Customs and other valued partners and who continue to ensure that we do have, I think, a very proud record of having one of the safest sets of arrangements that protect our flying public within Australia. I commend the bill to the chamber.

Mr OAKESHOTT (Lyne) (4.41 pm)—I rise certainly not to oppose the Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008—being aware of the Main Committee’s non-contentious process—but to raise several concerns that I want to put on the record for consideration by those involved in government and in aviation security at a later date, particularly when they put the various regulations together. Firstly, there is the obvious point regarding the legislation passing through this place without the details of the regulations being attached. In so many ways this legislation, for me, flies or fails—pardon the pun—in regard to
the detail of the regulations that should be attached or available as part of this process. The questions are incredibly broad regarding the issue of the use and collection of information and the expanded role that this legislation gives, yet the answer that is provided in any of the resources available to a private member in this place is that the regulations will define that.

It makes it very hard for a local member to support this legislation if we are, once again, having to take government on good faith in the collection of what we can only assume is information for security and intelligence purposes. I would hope that we have learnt some lessons in the last decade in taking government on good faith and on the encroaching paternalism of the state in the role that it sees itself playing in protecting society. I would have hoped that we have learnt the lesson not just from the last 10 years but from the history of man and democratic society that says open democracy and the principles of liberty and freedom are best defended when societies are as transparent and therefore as accountable as can be. Faith in people, rather than faith in governments, is surely the future in protecting communities such as ours. So it makes it very difficult for me to support this legislation when we are being told through the documents that the regulations will tell all and that the legislation should therefore be taken on good faith. I have a fundamental problem with that. I will not oppose the bill today, but I place a marker that hopefully we do not see that again. I do hope—

with the good faith of all the 150 members representing the people here—that the regulations, with the powers we are giving to those writing the regulations, are written with the interests of people in mind at the same time as the various security and intelligence interests.

The second point I would like to make flows on from that. It is, I guess, that I hope this chamber has learnt the lesson in regards to the collection of intelligence. I was just sent in a timely way a document which was published in late 2008 by Macquarie University in the Journal of Policing, Intelligence and Counter Terrorism by a friend of mine who is the executive officer of the regional development board on the mid-North Coast. I want to read for the record the concluding three paragraphs from his essay on intelligence and intelligence gathering. They are relevant to the point I just made and should be relevant to the consideration of the drafting of the regulations and to the future direction from government as to how government deals with the vexed questions that are being put before it by the attacks, in what are fundamentally peaceful times of those with religious or cultural barrows to push, I would like to read. the final three paragraphs because I think that they are worthy of reflection. They say:

Since September 11 the threat of terrorism has prompted fundamental changes to national priorities and an unprecedented concentration of authority. “Secret” intelligence has been used by governments as the justification for policies and actions that shift the balance between the rights of the state and the individual, at the same time avoiding intensive public scrutiny of decision-making processes. It is apparent that the threat of terrorism has engendered a range of significant negative changes in Australian society. Core democratic principles and institutions have been compromised and human and civil rights diminished. National priorities have been transformed, reducing an already inadequate level of funding support for the most disadvantaged in our community (poor/young/sick/aged/indigenous). The relationship between the community and its elected representatives has changed, with the emergence of a new and powerful paternalism under the guise of national leadership in a time of crisis.

Of great concern is the possibility that community anxiety about “foreigners” has been exploited for partisan political purposes to polarise society and to alienate Australian Muslims. Ironically this has the potential to create the conditions that will increase the future prospects of terrorism in Australia. Igno-
rance and prejudice threaten to damage the fabric of Australia’s multicultural society through the radicalisation of sections of our own community. Should a terrorist incident occur in Australia in the future the inevitable response will fundamentally change the nature of Australian society.

A government committed to maintaining a peaceful, just and humane society will always act to ensure that all Australians, no matter their origin, religion, race or colour, are respected as equals and enjoy fair access to the opportunities that this unique country offers.

I read that into the record to be reflected on when writing the regulations. I do acknowledge that there are privacy laws attached to the collection of private information here, but I think there is a large section of the community that want to see an investment in people and the liberties, freedoms and transparency that come with an open democratic process rather than continued encroachment by increasing government powers and paternalism.

I therefore do not oppose the legislation. It certainly does, in summary, concern me that we are being asked to support legislation before we have seen the who, the what, the where, the why and the how of the regulations and the details in them. I hope that consideration is given to those broader founding principles of an open society rather than the continued encroachment of government control and authority.

Mr ALBANESE (Grayndler—Minister for Infrastructure, Transport, Regional Development and Local Government) (4.49 pm)—in reply—I thank members, including the member for Lyne, for their comments in contribution to the debate on this bill. The Aviation Legislation Amendment (2008 Measures No. 2) Bill 2008 makes four key amendments to aviation safety and security legislation.

One amendment to the Aviation Transport Security Act 2004 will expand the information collection and delegation powers of the secretary of my department. The sort of information to be collected may include information relating to the screening of people, vehicles, goods or cargo. The other amendment to the Aviation Transport Security Act 2004 will improve the robustness and flexibility of the aviation security framework to ensure a timely response to threats of unlawful interference with aircraft.

The amendment to the Civil Aviation Act 1988 will improve the reliability of cockpit voice recorder information for future safety investigation purposes by clarifying the legality of necessary maintenance practices. On many occasions, cockpit voice recorder information is the essential piece in the puzzle to determine why an accident occurred. We must make sure the source of this information is functioning and reliable and that the information is used only for legitimate testing and maintenance purposes.

Lastly, the amendments to the Transport Safety Investigation Act 2003 will improve the workability of the Australian Transport Safety Bureau’s accident and incident reporting scheme. It is essential that safety data is reported on accidents and incidents for the improvement of future transport safety.

The amendments contained in this bill will further enhance Australia’s aviation security and safety regime, and I commend the bill to the House.

Question agreed to.

Bill read a second time.

Ordered that the bill be reported to the House without amendment.
CONDOLENCES

Victorian Bushfire Victims

Debate resumed.

Mr IAN MACFARLANE (Groom) (4.52 pm)—I rise to support this motion of condolence and in doing so I acknowledge the many comments that have been made, particularly by members of electorates that have been affected by this horrific tragedy—electorates like McEwen, Gippsland, Indi, Murray, McMillan, Mallee, Wannon, Corangamite and Bendigo. They are all electorates that I have had the opportunity to visit, for various reasons, during my time as a member. No one would argue that when the rains come and the valleys blossom these are beautiful electorates. As someone who has grown up on the land I have some insight—although I would never think that I had a real picture—into just how horrific these areas would be when they were attacked by fire, fire like we have never seen before.

If I reflect on my days when I was a member of the Boondooma-Durong bushfire brigade, fighting fires in gum trees in hilly country was a danger all on its own. But the dangers that I confronted in the forests of Queensland are almost insignificant in comparison to the fires that we have seen in Victoria, with the temperature so much higher, timber so much denser and accessibility so much more difficult. There are few things that frighten me, but fire is certainly one of them. Fire has with it an inherent risk.

With this motion we reflect on what happened to too many poor souls as they attempted to defend their property and their loved ones and lost their lives or were severely injured as a result. We know that the death toll will rise. We know that grief in the communities will arise as the stark realisation hits home. We know, though, that deep down inside these people are Australians, and it is that character, that sense of resilience and that gritty courage that will rebuild these communities—and restock the land, and, as best they ever can, the communities will be as they once were, but never quite the same. The toll of this horrific event will be far greater on the spirits of these brave Australians than it will be on their pockets. Australians everywhere, including in my electorate, are digging deep and putting their hands in their pockets to help these people overcome an extraordinary challenge that, hopefully, no other region will ever experience.

People in Toowoomba and the Darling Downs have been blessed with country that is not prone to fires and, with a few exceptions, most areas will not see the ravages of fire or the devastation of floods, as we have seen in North Queensland, but that does not mean that these people do not feel for their fellow Australians when such a horrific disaster strikes. From my family, my constituents in Groom and myself, I convey our deepest condolences. I express our deepest sympathies and assure the people of the communities, whose names we continue to hear each time we turn on the television, listen to the radio or read the newspaper, who have lost so much—in some cases everything and in some cases that which is most precious—‘You are in our minds, you are in our hearts and you are in our prayers, not just today but on an ongoing basis.’

In our nation’s history we have faced many calamities, but fire is a recurring theme. Dorothea Mackellar has been oft quoted in speeches, both in this place and in the main chamber, but in fact when you use the words ‘beauty’ and ‘terror’, as she used them to describe Australia, they can actually be used to describe fire. Many of us—probably all of us—have had the
There will be lessons learnt from this fire and there will be incriminations and accusations—and I am not going to participate in any of that. As I said, I have fought fire, I know its danger and I have seen men almost killed by it but for a stroke of luck and a couple of seconds of timing, but in support of this condolence motion today I really just want to convey, on behalf of the people of my community, how much we feel for the people of the communities affected. I also express our gratitude to the selfless people who go without scant regard for their own safety or time and give their all in a volunteer capacity to fight these fires, care for those who are injured, assist those who are distraught and help begin the rebuilding process.

Members of the RFA and the CFA and volunteers who have travelled from New South Wales, Queensland and no doubt South Australia to assist these people in their time of distress are Australians displaying the true spirit of mateship. They do not expect acknowledgement and they certainly do not expect payment, but they will go away knowing about the eternal gratitude of not only the communities but, of course, all Australians. To them I express my thanks. I also acknowledge and thank those who are administering the relief effort and those who are treating the injured and the burnt: ambulance officers, medical officers and hospital staff. Their job in rebuilding the bodies of these people will be a critical part of their recovery.

Today in the House we heard about the efforts of the Australian defence forces and the people who have gone in with them from the police force to perform what must be one of the most challenging tasks in the post-fire recovery period—as the Minister for Defence said, optimistically searching for survivors but realistically knowing that they are looking for those who have perished in this fire. I know they have courage and I know they have the ability to do the job, but I wish them all strength in the task they perform. In closing, I again just say that the rural landscape can bring great beauty and reward to Australians and this nation has grown as a result of our involvement with it. At these times, when it has wreaked such huge devastation on life and property, we need to remember the lessons that are learnt and comfort those who are suffering but look forward to a brighter future.

Mr SYMON (Deakin) (5.02 pm)—Today I rise on behalf of the constituents of the electorate of Deakin in support of this condolence motion for the victims of the Victorian bushfires. That such a tragedy has occurred is shocking; that it is not yet over is deeply disturbing. Every day brings more terrible news about more death and more destruction. As the winds pick up today in Victoria, many towns are again under threat. My sympathy, my heart, goes out to all those affected, especially those people who have lost loved ones, friends, neighbours, workmates or those who know others who have. The destruction of life, property, personal belongings, pets and animals, and even little mementos and keepsakes, is on a scale that is almost incomprehensible. The horror of the pictures and the words that have been conveyed from the many destroyed or affected townships fills me with immense sadness, as each of these pictures or stories represents a person or a family whose life has now gone or is tragically changed forever. That such a disaster can occur in the 21st century reminds us all that nature has not been tamed. A bushfire in the 21st century is no less fearsome or deadly than in times long ago.
As a Victorian member I have listened to the other contributions to this condolence motion with trepidation. Each speaker has told of the destruction, whether of life or property, but many have told stories of hope or escape. Some of those stories are almost beyond belief. I grew up in the outer Melbourne suburb of Bayswater in the 1960s when it was still semirural. One of my earliest memories—as a child of probably only three or four—is of looking out the back door on a summer’s afternoon and seeing the fires in the Dandenong Ranges. I think that would have been around 1968. It was a fair distance from where we lived—in fact, at that time it was quite a few miles away—but, as a small child, that was one of the things that was in my memory and will not go away.

Fortunately, on that day, and every other time there were fires in the hills while we were living in that house in Bayswater—and that was quite often—they did not come towards us. They always burnt into the hills. As we have seen and heard in some of the stories of these fires, however, they have gone into areas that are not even regarded as hills. The fires around Bendigo, where bushfire intruded into what are really suburban streets, will need to be looked at in great detail in the upcoming royal commission. Even though I lived a long distance from those fires, distance is no object when a bushfire is raging—as we have seen in recent days. Time seems to go—or does go—in mere seconds. If a bushfire is travelling at the speed of over a hundred kilometres an hour, the best laid plans simply do not always work.

I well remember the bushfires of 1983, which were subsequently known as Ash Wednesday. Forty-seven Victorians died in those fires and another 28 people died in South Australia. The smoke from the fires covered Melbourne, the sky turned a dirty brown and fine ash rained down in many suburbs. About a week or so after the fires had gone, I decided to volunteer and to go up and work in the township of Cockatoo, which had been burnt out in those fires. Three hundred and seven buildings and six lives in that little township up in the hills were gone, and that was just one of many places in Victoria that were burnt—almost beyond recognition—by those fires. I volunteered, and there was so much work to be done; there was quite simply nothing left in the way of services. There were a couple of shops in the main street that had not been burnt and a relief centre—which was a community hall, from memory—that had not been burnt and that had the Red Cross and various others operating out of it. By that stage, the initial clean-up had started, but it was still so far from ever being what it is now; and today it is actually a thriving town.

The work I was doing involved something quite simple: installing temporary builder’s electricity supply poles on each burnt-out block—and, as I say, there were many of them. At that stage, there were no powerlines, there were no phone lines and the roads—where they had been tarred—had burnt. There were lots of volunteers up there doing small jobs so the big ones could start. I suppose it was just a truly devastating experience to see what that township had been through and to see it up close, not in the fury of the flames of the bushfire but in what came after. Even the street signs melted. The glass out of the street lamps melted into big teardrops. There were burnt-out cars, houses and structures of all kinds. Even the trees around Cockatoo were just giant black matchsticks—no leaves, no branches. The smell that had been left behind by the fire was there in every breath you took.

The other thing that I had forgotten—it is 26 years since the Ash Wednesday fires—was the absolute silence of the place. There was no noise—no birds, no animals, no sounds of humans even, because they were spread out across what had been the township, doing small jobs. The
silence was all encompassing. Even though I was not exposed to the fury of the fire or the fear of it coming in, seeing the fires on TV now and hearing the stories, seeing afterwards what it had done, certainly brings back those memories. That there have been worse fires than those that occurred on Ash Wednesday is a national tragedy that requires us as a nation to consider all alternatives, whatever they may be, when dealing with bushfires.

Many of the towns that have been razed over the last few days are very familiar to me because I spent many weekends and holidays enjoying the surrounding bushland—going away for the weekend, camping with my Scout group at Glenburn, fishing in the river at Murrindindi, having cold beers at the Narbethong pub, playing bad golf on Sunday mornings at the Marysville golf course or having weekends away with the boys on the Black Spur. For me those things were some of the benefits of growing up in the eastern suburbs and its easy access to the bush: those places were all less than an hour up the Maroondah Highway or the Melba Highway.

Although my electorate of Deakin has escaped any direct damage from the bushfires, there are many people in Deakin affected by this disaster through friends, family, work connections or school, and those stories are widespread. There is probably no-one within the electorate that is not connected or does not know someone in the neighbouring electorates. As I said before, we are only a short distance from the hills and therefore from some of the fires.

Like just about every other speaker on this motion I have to say what a great job the CFA, the DSE and the MFB—who have sent some of their services across—have done in doing everything they can to protect people’s lives and properties. It is a huge effort in Victoria at the moment with so many fires burning at once, and some of them are in such inaccessible areas. You could never have enough people available to counter what is happening at the moment. Fortunately, in the last few days the weather has been kinder than on the weekend, but I think many people in Victoria on Saturday, when it was 46 degrees, knew it was going to be a rough day. It is not as if it was a total surprise. The warnings had gone out, but then things just got dramatically worse.

Of course I cannot forget the work the police, the SES, the ambulance services, community groups, the Red Cross and the Salvos have done and are doing. It is fantastic to see that community spirit come out. It is still out there now—and it needs to be out there for such a long time to come. I am told there are 5,000 homeless people; I am sure that figure will grow. As I said before, rebuilding is going to be an even bigger task than it was after Ash Wednesday. It took many communities many years to overcome that, and we still do not know how much more Victoria is going to face. As the Deputy Prime Minister said in moving this motion:

"Every one of us here today will do everything that we possibly can to respond, to rebuild and to make certain that, to the extent that we can ever combat nature’s might, such tragedies cannot happen again."

I wholeheartedly agree with the Deputy Prime Minister, and I commend this condolence motion to the House.

Mr RUDDOCK (Berowra) (5.14 pm)—I rise to support the condolence motion moved by the Deputy Prime Minister and supported by all who have spoken to date in this debate. I add my condolences to the families who have lost loved ones and my commiserations to those who have lost property and assets, and I bring with me the condolences and commiserations
of the electors of Berowra to the parliament and to my colleagues, particularly those colleagues whose electorates have been affected.

In the time that I have been in the parliament I have witnessed many events of great enormity and tragedy, often in other parts of the world. There are not many that impact upon Australia, but when you think of the Australians who lost their lives in the Bali bombing it was significant in this parliament. The services in the Great Hall reflected that. But I do not think I have seen, since 1973, the activities of the parliament truncated in the way in which they have been so that a universal view can be conveyed to the Australian community about the enormity of the loss that has been suffered, nor do I think that I have heard such fine addresses by colleagues. When I think about the member for McMillan speaking yesterday, joined by the members for Wannon, Mallee, Casey and Bendigo, when I think about the fine addresses today from the members for Gippsland and Indi and add to that members affected by flood who acknowledged the enormity of the disaster that is being suffered in Victoria—the members for Herbert, Dawson and Kennedy—this has been a remarkable couple of days.

I was gratified today to hear that the Prime Minister and the Leader of the Opposition have met to discuss the way in which we might move forward in common purpose. At times of emergency, there is an expectation that that will happen, and I certainly hope it can continue, because the wide range of issues that we have to deal with demand it. I thank the Prime Minister, as the Leader of the Opposition did, for his engagement with members of the parliament generally and his messages of support and encouragement. Particularly the members who have received them have acknowledged the importance of that common purpose. It is in that context that I look around this chamber. I see the members for Bradfield and Werriwa, and they will know, as I do, that fire is a present threat for many of us in the outlying areas of our great cities, where you have great national parks and open spaces adjoining urban and semi-urban areas. So when I hear something of the horror that people have experienced, while I know that my constituents have not had the same level of adverse experience, nevertheless constituents know about the enormity of threat that fire poses.

In 1957 I fought my first bushfire in Sydney with a hessian bag. In that sense, I felt overwhelmed as significant parts of Hornsby, including St Peter’s Church, were lost as the fire came up out of the Berowra parklands and Galston Gorge. We have had more recent fires. I relate to those who have spoken with horror at the prospect that somebody may deliberately light fires. Close to my own home at Pennant Hills, out of the Lane Cove National Park, we used to regularly experience bushfires that we now know were always deliberately lit, because the culprit was found and prosecuted. Since that time we have not had any fires, except I think the one that was at the eastern end of Lane Cove National Park, adjacent to the member for Bradfield’s electorate, last week.

I know the enormity of the anguish that people experience as they think about fire. We have lost life and property in my constituency but we have not experienced the enormity that our Victorian colleagues have had to endure. It is right that we should mourn and commiserate with them. It is right that we should express our condolences in the way that we have. But it is also important that we learn the lessons. At times I have had some responsibility for assisting in relation to the work of Emergency Management Australia, an agency within the Attorney-General’s Department that has had responsibility for liaising with states and territories and ensuring that Commonwealth support, where it is possible to assist, is available.
I notice that the Commonwealth disaster plan has been activated. It has happened again and, as the Prime Minister acknowledged, EMA played a role in ensuring that the Defence Force could bring together the tents, stretchers, sleeping bags, portable beds and mattresses as well as the heavy machinery—the bulldozers and loaders—and the chainsaw crews, the aerial imagery and the defence personnel who can provide search and recovery assistance.

The Commonwealth disaster plan provides the ability to gather together the support that the Commonwealth can offer—and it is appropriate that it should—but the Commonwealth’s role is quite limited. While Emergency Management Australia provides that critical support—and it has done so again, through Tony Pearce, its director, briefing the Prime Minister—you can see from the arrangements outlined by the Prime Minister that the royal commission will be a Victorian royal commission. The Victorian government will establish, under Victorian legislation, a Victorian bushfire reconstruction and recovery authority. The personnel are eminently well qualified; nevertheless they are the choice of Victoria.

While I am not critical of those arrangements that were put in place to respond, or of the activities of those that did respond—I know the enormity of it and the difficulty associated with the response and I know of the professional and volunteer support that has been given—I think we will have to reflect on whether or not there should be some further Commonwealth engagement in relation to the way in which these issues are taken forward in the future. I offer the comments constructively when I say that. I have spoken, long before this tragedy, about reviewing some of the material that has been prepared by ASPI, and I noted that in the Smith review, which was undertaken in a broader context dealing with national security issues, it was proposed that Emergency Management Australia be integrated into an Australian emergency management committee with a national security adviser as the chair. This was seen as providing enhanced capacity to respond to an all-hazards approach to dealing with emergencies that we face.

My view, as I said in a speech that I made in Victoria several days before these fires, is that the Commonwealth needs to go further. Emergency Management Australia has played an important role in Australia’s response to and recovery from many disasters, both locally and abroad, but I believe that that role needs to be expanded along the lines suggested by ASPI, to include a greater command role for disaster recovery and response. That is a matter that the government might be prepared to consider. I think its role needs to be more than just providing grants for volunteers, education at Mount Macedon and grants to enhance facilities of agencies. I oversaw its implementation. Our Rural Fire Service in New South Wales has seen increased participation by volunteers. While volunteerism has been in decline in so many areas in Australia, it was interesting that, in that one area, where people’s property and life were threatened, there had been increased voluntary participation, particularly in New South Wales. I believe that the role of the former government’s programs in attracting people to volunteer was important.

I very much want to contribute positively in this debate, but I more particularly want to associate the electors of Berowra, my constituents—who understand something of the loss that the Victorians have experienced—with this condolence motion and the commiserations that have been offered in terms of the loss. My electors, along with Australians generally, have been and, I am sure, will continue to be generous in their financial support. I know from calls to my office that people have been looking at ways and means by which they can be of assis-
tance, and it is a great tribute to Australia and Australians that in a crisis of this sort people have so willingly pulled together. I also commend my colleagues, who have given leadership, and also the parliament for its fulsome engagement in this motion. It says a great deal about the nature of our democracy that on an occasion like this we can put aside our more combative approaches and speak with one voice and in union.

Mr HAYES (Werriwa) (5.28 pm)—I wish to join in support of this condolence motion by the Deputy Prime Minister. I do so on behalf of my community of Werriwa and certainly my family and myself. Along with all of my colleagues on all sides of this parliament, I have over this week witnessed a national tragedy. Presently some 4,000 firefighters are in Victoria fighting 23 fires. What has occurred in Victoria since last Saturday has probably been the worst natural disaster in our recorded history. I observed, shortly before coming down here, that about 181 people had been confirmed dead and that over 5,000 people were now homeless.

This tragedy has really shaken the whole nation. I know it probably does not mean much for people outside of parliament at the moment, but those of us in here cannot help but feel the sombre nature of this place. I think my colleague the member for Berowra put it pretty eloquently when he said that this place is probably more well known for its feisty and combative nature. The nation has been shaken to its core and, quite frankly, we are reflecting the views not only of our constituents but of the nation as we approach this dreadful tragedy in Victoria. The nation is being shaken by this disaster as it unfolds.

The people of Victoria are in my thoughts and prayers. The people of south-west Sydney and families right across Australia have the people of Victoria very much in the forefront of their thinking at the moment. As a member of this parliament, like many others, I have regard for the many Victorians who have lost friends, families, loved ones and homes and have suffered terribly. We want them to know that we are thinking of them and are praying for them. We are committed to doing everything possible to respond, to rebuild and to make certain as far as we can, in the words of the Deputy Prime Minister, that ‘such tragedies cannot happen again’. I look forward to the contributions that various experts may care to make in the Victorian royal commission that has been announced. I wish the royal commission well not simply in looking at the causes of the great tragedy in Victoria but also in pointing in its findings, hopefully, to what can be done in our communities to make them safer.

At this time we must also think of those families struggling in North Queensland. There is great irony in this great country of Australia. At the same time we have fire devastation in Victoria we have a flood devastated Queensland, where a number of people are missing and over 3,000 people are homeless. Today I take this opportunity to personally pass on my gratitude to all of those firefighters, emergency service workers, police, Army personnel and medical staff and those providing counselling and support to those affected by the fires, and those providing financial assistance, including the dedicated staff at Centrelink. I extend my gratitude to all of those people contributing for doing the work they are doing, work that we physically cannot do.

There is no person in this country who has not been touched by the unprecedented nature of this disaster. It takes your breath away every time you turn the TV on. There is almost the expectation that things will be getting worse because over the last week when we have turned on the television things have gotten progressively worse. I have been speaking regularly to Mark Burgess, the Chief Executive Officer of the Police Federation of Australia. I was talking
to him about the welfare of the police not only in North Queensland but in Victoria at the
time. Each time I end those calls only one thing really stays in my mind—and this will not
come as any surprise to members—and that is just how wonderful our emergency service
workers really are. I greatly value the difficult and often very dangerous jobs that they do.
They do them with complete and utter commitment. I have said in this place before that it
takes a special kind of person and special kind of courage to commit to wearing a police uni-
form. This too can be said no less of our firefighters, who as we speak are continuing to fight
the most devastating fires in our nation’s history.

We are truly indebted to those brave men and women who are currently committed to fight-
ing and containing the remaining fires, those who are sifting through the rubble of houses
looking for bodies, those who are hunting down arsonists and those who are undertaking the
grim task of formally identifying those who have perished so the next of kin can be formally
advised. To all those involved, you should know that your significant and tireless contribu-
tions are valued, and I want to assure you that we do not take you for granted.

Before coming into the chamber today I spoke at length to Inspector Brian Rix, a very sea-
soned Victorian police officer, a homicide squad investigator and a person who has probably
seen the worst of humanity to that extent. He is also President of the Police Association of
Victoria. When I was talking to Brian today, I told him that I would be speaking to this condo-
lence motion and Brian asked me to personally pass on sincere thanks from him and on behalf
of all of his members who are directly involved in working on this tragedy. He told me that
dreadful times like this really bring to light how being a member of the police force is more
than just a job. He has received many calls from members each day and he has received nu-
merous calls of support from every police force, state and territory, and the Federal Police. As
a matter of fact, I think the Australian Federal Police have now committed over 90 officers to
work down there alongside their Victorian counterparts. Inspector Rix said:
We really are one family and in times of need, we support each other and right now you are all showing
us here in Victoria that support.

He went on to tell me that the capricious nature of these fires has meant that the welfare of
members will require close monitoring. However, he assures me that the service in Victoria is
certainly meeting the immediate financial needs and providing emotional support for those
who need it. In fact, it was only yesterday that Inspector Rix was at the police operations cen-
tre, where he was providing support to his members and colleagues who were exposed to the
extreme, traumatic event. In some cases there are members who have lost their own homes
but they too are out there still working, still sifting through the rubble and trying to establish
what they need to with regard to what they now regard as a crime scene.

While Inspector Rix was out there yesterday, as president of his police association, he too
went out to assist his colleagues. He was telling me that he uncovered a body himself and re-
trieved a body from an area. He left me with a very clear sense of the impact of seeing the
effects of this devastation. It is not just something that you see when you put Sky News on
and that then goes away when you turn the news off. This actually stays with you. Whilst I
know firsthand, having regard to my previous association with the police, about the work that
police do and how they are affected, what Inspector Rix wanted to leave me with was that it is
not only the police who are going to be affected by this; it is all those various members of the
community—the volunteers and professional firefighters, the ambulance officers and all those who are assisting. They also need to be looked at and supported as time progresses.

Additionally today I would like to take a little time to express my appreciation of the numerous dedicated and valuable volunteer members of the Rural Fire Service from my own area in Werriwa. In addition to assisting our local community over the weekend, our firefighters travelled to Victoria on Sunday. Tankers from Casula, Lynwood Park, Minto Heights, Narellan and Varroville bushfire brigades—24 crew members in all, together with a deputy group captain from Camden—departed on Sunday morning to assist the CFA. They are in the Beechworth area as we speak.

I spoke to Superintendent Caroline Ortel, the Macarthur zone manager for the Rural Fire Service, who advised me that these volunteers are providing relief for the Victorian crews and there will be more who will interchange from Macarthur. I understand from Superintendent Ortel that there are any number of local volunteers with their hands up to go down to help. Her task is to ensure that we provide not only assistance in Victoria but also the necessary protection for our own bush areas. She told me that I should mention the dedicated service of those RFS members who as a consequence remain, because they are actually doubling their time on standby in order to protect the south-west of Sydney at the moment. This is an example of a situation where we see all the members of our community pulling together to do something. They have the necessary training and they intend to use it to support the people of Victoria.

Kevin Harder, the commander of the SES at Campbelltown, advised me today that, while there has not been a formal call on the SES, he has already had two of his team volunteer. They have gone to Sydney to refill relief supplies so they can be transported to victims of the Victorian fires. Again, I thought it was very good that, even when our volunteer organisations have not been called upon to do various things, they have initiated their own activity in trying to make a difference in Victoria.

To all those volunteers I say: all your contributions are admired, and I would like to take this opportunity to convey my sincere gratitude to all of those local heroes. To the people of Victoria, who have suffered so much: we are truly sorry for the horror that you have had to endure. Words are unable to successfully communicate the sorrow that I feel or the losses that people have suffered on both an individual and a community level. It is very difficult to stand here and imagine the depth of their loss and grief. To the people of Victoria I say: may you find the faith, the courage and the strength to carry on and to rebuild your lives, remembering those who have passed and what you have lost. Knowing the spirit of true Aussie mateship, all Australia mourns in respect of this dreadful disaster. Genuinely, we send you our love, our thoughts and our prayers. As the PM indicated, we will be there with the people of Victoria to support you with whatever it takes to rebuild your communities.

I also indicate that my thoughts and prayers are with my parliamentary colleagues whose electorates have been affected by the fires, in particular the member for McEwen, Fran Bailey, who is currently unable to attend parliament and is still tending to her community. I have a lot of admiration for Fran in that respect and I think every member of the parliament certainly appreciates her commitment and dedication in staying with her community in their time of absolute need.
Finally, like the Prime Minister and all my parliamentary colleagues, I support the appeal effort throughout Australia. I know Australians will dig deep into their pockets. They will strengthen their resolve and do what is necessary to ensure that we return Victoria to how it was prior to these bushfires. We will be part of rebuilding these communities. We will not forget what has occurred, but we will be part of rebuilding these communities.

Mr GEORGIOU (Kooyong) (5.44 pm)—I wish to support the condolence motion on the devastating tragedy that bushfire has inflicted on the state of Victoria. Victoria has endured this nation’s worst natural disaster. The fires that raced through many townships around the state have produced tragedy and immense loss. Almost 200 lives have been confirmed lost, many hundreds of people have been injured and hundreds are in hospital—some of whom are in a critical condition. Literally hundreds of properties have been reduced to ashes and entire towns have been wiped off the map. For many Victorians, the pain and suffering continue as they search for their loved ones who are still unaccounted for, as they grieve for those they have lost and as they wonder how they will rebuild their properties, their communities and their lives. Many people are unable to return to their properties, as roadblocks continue and townships remain closed off. In some cases they are closed off because the fires are still burning and in others because victim identification continues.

The images that we have seen on the news convey only part of the devastation that has afflicted Victorians. But these images convey some of the terror that has been and is being felt by so many. One of the things I have noticed is that, every time you think you are inured to the images, new ones come up that reimpact. For example, in today’s Age a profound impact was made by photos of the people who, just a few days ago, were alive and happy and who have been killed by the fires. The costs of the catastrophe are staggering: 181 people are confirmed dead and the expectation is that more will be found as the task of going through burnt-out shells of houses continues. Close to 600 people have been hospitalised, many in a critical condition with burns and smoke inhalation and some remain in intensive care. More than 5,000 people are refugees; 1,000 homes and 400,000 hectares have been destroyed; people have lost everything and rely on welfare centres and emergency evacuation facilities as makeshift homes.

Most of the people of Marysville, whose town no longer exists, eat, sleep and wake in the community hall of a high school in Alexandra. They wait for a future that is uncertain. They have no homes to return to and their town has stopped existing. The people of Victoria and of Australia have been deeply affected by the tragedy, and all our hearts are heavy this week as we read the newspapers, listen to the latest updates on the radio and watch the images of horror on the TV news. Beyond this, there has been a response from the international community, as the Prime Minister outlined yesterday.

The stories of loss, anguish, fear, escape and survival make us shake our heads in bewilderment and disbelief. One phrase that keeps cropping up in speeches on this condolence motion is that it is very difficult to express in words what people are feeling. In part, it is from the expression of these feelings and the inability to quite express them properly that we can see a community that is pulling together and acting as one as the distinctions between state and state, city and country, are erased. While those affected have been consoling and comforting each other, the support from the broader community has been phenomenal. The Red Cross has received over $31 million from over 153,000 donors. The blood bank in Melbourne has
been overwhelmed with thousands of online pledges to donate blood, and many people are streaming through the doors. Many corporations have pledged donations or are facilitating appeals within their businesses. I note with some pride that the members of the Australian parliament, who are so often divided by principle and interest, have on this occasion come together in unity and in a commitment to do whatever is necessary to try to restore as much of people’s lives in the affected areas as is humanly possible. I think that that is, as the member for Berowra said, a sign of a very strong democracy. And I think the leaders on both sides of politics have given the Australian people the sort of leadership that they are entitled to and do not always get.

I join with others in acknowledging the courage and determination of our outstanding emergency services personnel, our police, our military and particularly the thousands of volunteer firefighters committed to battling fires and saving whatever they can, despite facing the most extreme conditions ever. I would just like to close by quoting from the quite remarkable speech by the member for McMillan yesterday. He closed by saying:

To those who pray, I say: pray now; do not leave it until next Sunday. To those who fight, I say: all strength to your arm; stay safe. To those who serve, I say: we in this parliament stand with you as one.

I commend the motion to the House.

Mr PRICE (Chifley) (5.50 pm)—It is a privilege to follow the honourable member for Kooyong, who quoted from an extraordinary speech in the House by Russell Broadbent, the honourable member for McMillan. I want to start where he left off, by saying I think we have had some outstanding contributions in the House, from my own side by the member for Bendigo and the member for Ballarat and equally from the opposition side. Today we heard from a very new member, who was elected in a by-election not so long ago and has surely been tested by these events. In the House, he was demonstrably affected by what he has seen, but it was a very, very good speech. In relation to the member for McMillan, I can say I have not heard anything like that in my time in this House.

As the member for Kooyong said, I think that the people of Australia can be proud of our leaders. I am proud of the Prime Minister and the time he spent down there. I am personally touched by the fact that he rang or sought to ring members—opposition members as well as government members, but particularly opposition members, who have been more affected in their electorates—to comfort them, to reassure them and to see what could be done. Equally, the Leader of the Opposition and the Deputy Leader of the Opposition have conducted themselves in a most admirable fashion and have spoken well in the House, as did the Prime Minister and the Deputy Prime Minister. I commend Mr Turnbull, the Leader of the Opposition, and Julie Bishop.

We really have not seen the like of this before. If you want to do the statistics, then unfortunately the bushfires in Victoria, which are far from over, have taken more lives than both Black Friday and Ash Wednesday. Regrettably, the toll is still mounting. We all know that the numbers that have been publicly disclosed are going to climb much higher.

I do not come from Victoria. I come from New South Wales. I come from Sydney, like Mr Nelson, the former Leader of the Opposition. In a way, in Sydney we are always used to somewhere on the North Shore or somewhere like Heathcote, in the southern suburbs, having a bushfire each year. And we are aware of floods. It is the nature of things. It is almost as
though, in a way, we are desensitised in our country to floods and bushfires. But this is altogether of a different magnitude.

Again, can I just say that, as a member of parliament, I am really proud of the parliament—proud of the government, proud of the ministers and proud of the opposition, their leaders and the backbench, for all that they are doing in terms of leadership, comfort and support. Both sides have said, ‘Whatever it takes, we’ll do it.’ The Prime Minister has indicated his determination by saying that there will be no cap on the federal government involvement. And that is not just a speech for today or tomorrow; it is really an assurance to those communities that the Australian government and the Australian parliament—I say that to include the opposition—have a steely determination that we will overcome. We will be there. As days and weeks go by, we will all be asking what has been done and what is to be done. The task is not very easy. It is quite enormous. The expectations are very high. But we will be there today and tomorrow.

I want to commend, too, Minister Jenny Macklin, who has not had the opportunity to leave Victoria. She has been there as our principal minister. Down there we have had the Prime Minister and the Minister for Human Services, Senator Ludwig, and today we had Joel Fitzgibbon, the Minister for Defence. But Jenny Macklin is on point duty as the main representative there in Victoria. We await her return, because I am sure that she will have a lot to say.

The Prime Minister mentioned Dorothea Mackellar and her very famous poem *My Country*. I am ashamed to say that I thought it started with ‘I love a sunburnt country,’ but it does not. I thought I might quote a couple of lines from the poem, starting from the second verse:

I love a sunburnt country,
A land of sweeping plains,
Of ragged mountain ranges,
Of drought and flooding rains.
I love her far horizons,
I love her jewel-sea,
Her beauty and her terror,
The wide brown land for me!

I will also quote the second last verse:
Core of my heart, my country!
Land of the rainbow gold,
For flood and fire and famine
She pays us back threefold.
Over the thirsty paddocks,
Watch, after many days,
The filmy veil of greenness
That thickens as we gaze…

I think the poem really describes the extremes of our country. In what other country would a government, a parliament, need to confront serious floods in its north and bushfires of an unprecedented scale in its south?
My electorate is a very poor one. We do not rate highly on lots of things. But the one thing I can tell this House is that it is a very generous electorate. You will not find big donations. You will not find magnificent donations. But what you will find are a lot of donations from people that battle very hard just to survive and feel very deeply about what people in Victoria are going through. I can quote one statistic that might surprise honourable members: the volunteers at the Mount Druitt Hospital raise more money than any other volunteers in New South Wales. That, to me, speaks volumes about their dedication and, more importantly, their generosity.

I want, like so many other members, to praise all those who have been and are involved in trying to battle on in a war that is not yet won. They are the police, who have really got an awful job in trying to identify those who are deceased and to tell us who the deceased are; the permanent firemen and the volunteer firemen; the Red Cross; the ladies auxiliary; and all those people who give so generously of their time, their emotions and their energy. I want to commend all those who have been involved. Really, I think the nation thanks you.

In my own state of New South Wales we currently have bushfires. I cannot stand here and say to you that there will not be a crisis in New South Wales. It could go belly up. But I do want to say that I am proud of the people of New South Wales, who are, through their government—as are others in this great Federation of ours, through their governments—contributing money and services. The New South Wales Rural Fire Service, New South Wales Fire Brigades, New South Wales Police Force and the Ambulance Service of New South Wales have all been involved in trying to assist our brothers and sisters in Victoria. Three hundred firefighters and 71 fire engines are already there. And I do not say this to say that only New South Wales is doing it—I know that other states are—but rather to demonstrate, I suppose, how everyone is rallying to the cause.

The New South Wales Minister for Emergency Services, Steve Whan, whose electorate is in Queanbeyan, has advised that an extra 20 lightweight striker units may be able to assist in inaccessible terrain. A team of nine police officers trained in disaster victim identification have been tasked with assisting their Victorian colleagues. Five New South Wales ambulance service paramedics are on site, and another four are on standby to accompany the New South Wales Fire Brigades’ urban search and rescue personnel who may be deployed. A New South Wales burns specialist and two burns nurses are on standby, with beds at Concord Hospital also on standby. Two critical incident support personnel from the Rural Fire Service are to provide counselling and to support New South Wales firefighters on the ground. New South Wales has also offered 25 specialist urban search and rescue personnel from the New South Wales Fire Brigades to assist with the search activities and damage assessment. So, as I am talking here tonight, there are 25 fires actually burning in New South Wales, and it reflects the Australian can-do sort of nature that, notwithstanding these threats that are posed in New South Wales, we are—and we are proud to be—assisting in Victoria.

To all those who have lost loved ones in Victoria, I say: please accept our deepest sympathy. There is a time to mourn, there is a time to grieve but there is also a time to rebuild and renew, and we sincerely hope that they will be assisted in doing that by the expression of so much community grief.

The last thing I want to speak on is the suggestion that some of these fires may have been deliberately lit. I do not know which may have been and which may not have been, but I have
great difficulty in understanding how someone could get some satisfaction, pleasure or delight in being involved in such a catastrophe. It is a particular sickness, I truly believe. But the fires have not all been deliberately lit. The peculiar conditions and the ferocity of this fire are things we have not seen before—conditions that can melt metal, boil water and move with such vicious and deadly speed.

There will be lessons to be learnt from all this and we need to learn them. I repeat the sentiment of both the Prime Minister and the Leader of the Opposition: we have a determination in this place to collectively and individually do all we can to see that, over time, these communities are returned to some form of normality—that houses lost are replaced, that businesses destroyed are resurrected and that farms and farmers who have suffered their losses are able to recover. I applaud the generosity of the people of Australia. I thank my state for its involvement in assistance, but in particular I want to record how much I appreciate its generosity. I know that people whose lives are really a daily struggle compared to those of so many, will find money to express their sorrow and their solidarity with all those in Victoria. They will be making a real and conscious, if modest, contribution to the rebuilding of those communities. I commend the condolence motion to the House.

Mr SLIPPER (Fisher) (6.06 pm)—In this contribution, I could not hope to emulate the poetic eloquence of the honourable member for Chifley, who just spoke—particularly when he quoted poetry. But let me say that in Australia we are singularly fortunate to live in what many people describe as the lucky country. Other honourable members have outlined the beauty of our landscape and the beauty of our climate, and we have also heard the most terrible stories of how we live in such a harsh environment. At the present time in Queensland we have some two-thirds of the state either drought declared or flood declared, and in some cases areas are declared to be both. That of course is in the north of our country. In the south of our country we have the most horrendous bushfires we have ever seen. I have to say that in times of adversity Australians really demonstrate what is our national mettle. I have been very impressed with the way the Prime Minister and the Leader of the Opposition have confronted this national tragedy. They have worked together and the government is working with other governments, not only within Australia but around the world, to assist people in their time of need and then of course to assist in the process of recovery, which will not be achieved overnight.

We have had messages of sympathy from right around the world, from Her Majesty the Queen down. A couple of days ago in the House, the Prime Minister outlined some of the governments who had passed on their sympathy with respect to this tragedy and also had offered assistance in various ways. I hope that we are accepting as many of those offers of assistance as we need and I hope that in the fullness of time we will know what assistance from around the world we have accepted. Whenever there is a tragedy anywhere on earth, the Australian people and the Australian government are the first to offer assistance. I have to say that what goes around comes around. We have a situation where people around the world are now endeavouring to reciprocate.

I have also been particularly impressed with the way there has been facilitation in the parliament to allow those members who represent the most affected areas to make contributions: to set out poignant stories and to tell us about the challenges, the endurance and the horrible events but also to tell us about some inspirational actions by people. The fact that this debate
is moving back to the main chamber when one of the most affected members wishes to speak is an example of how this parliament should operate.

The honourable member for McEwen was praised today by the Prime Minister for doing an outstanding job. She has confronted challenges, as have other honourable members in their electorates, but she remains at the wheel, so to speak, and has stayed where she ought to be. I look forward, in the fullness of time, to hearing a contribution from the member for McEwen. We have heard from the members for Gippsland, Indi, Murray, Mallee, Corangamite, Bendigo and Wannon—and I apologise if I have left any honourable members out—whose electorates are those principally affected.

I must say that I have learnt quite a lot about bushfires from listening to the debate. I thought that when a bushfire confronted property, threatening lives, that there were certain processes that were followed—I know that there are—but I just did not comprehend that you could have fires the centres of which could have temperatures of 600 degrees Celsius. They are fires which melt metal—they can melt gearboxes! There are huge fireballs that drop out of the sky, like bombs, onto homes. At times some properties are spared and other properties are gobbled up by the flames. There seems to be a sense of irrationality as to what properties are spared and what properties are consumed. People have come forward with some heroic acts. There have been some remarkable survivals which, in many cases, are entirely inspirational.

The member for Chifley mentioned his horror at the prospect that some of these fires may have been deliberately lit. I share his horror, and I know that all honourable members do. In fact, the Prime Minister in the House today—and I think previously—highlighted the need for us to look at this area of the law. There is no doubt that someone who deliberately lights a fire that becomes a bushfire which consumes life and property, as these bushfires have, is guilty of nothing less than murder. I know that our law enforcement agencies are being given all the assistance they need because people who do these things have to be made an example of. It has to be clear in our community that conduct such as lighting fires is absolutely unacceptable.

Mr Deputy Speaker, as you would know, I am privileged to represent the Sunshine Coast. It is a wonderful part of the world. It is a part of the world that many people visit. Many people from Victoria spend their holidays there, and because of internal migration in Australia many people living on the Sunshine Coast, and in Queensland more generally, originate from the areas where these bushfires are. My office has received lots of phone calls from people making offers of help, and I would commend the various appeals that are under way.

I stand in this chamber today to convey the very sincere sympathies of people resident in the electorate of Fisher towards those people who have lost loved ones, who have lost property and who have undergone experiences just too horrible to contemplate. It is important that, in a bipartisan way, all assistance is given—assistance firstly to extinguish the fire and secondly to ensure that there is not a repetition. That process will take a while, but the process of doing that is much shorter than will be the process of rebuilding communities and, even more importantly, enabling shattered lives to be put back together. It is impossible to read a newspaper without being brought almost to tears. When one looks at the media coverage on television or listens to the radio, the circumstances are simply beyond belief. I would like to formally associate myself with this motion and commend the mover of the motion and, more
importantly, associate my constituents with the various expressions of sympathy to those people who have lost loved ones and lost everything.

Ms HALL (Shortland) (6.16 pm)—I rise tonight with a heavy heart, as have so many members of this House, to speak on this condolence motion in relation to the Victorian bushfires and the people whose lives have been changed forever. I do this not only on behalf of myself but also on behalf of all the people in the electorate of Shortland, who have been ringing my office offering their assistance and support and commenting on the way this parliament has handled the matter.

No member of parliament wishes to be a member of this House at the time an event like this happens. I understand bushfires. In the electorate of Shortland, we are constantly confronted with bushfires, but they are nothing like the magnitude of the fire and the devastation that the people of Victoria have been confronted with. I have been faced with a wall of fire, but it was easy for me to get out. There was no real danger. We have had sparks on our lawn from various bushfires. We have had neighbours who had to fight to save their house, but they did save their house. They were safe and there were ways out. Unfortunately for those people in Victoria, it was a very different situation.

I feel very privileged to be a member of this parliament. We have had all politicians, all members working together with the common goal of expressing their sympathy and condolences to the people of Victoria. The whole process has been removed from politics. The whole situation has been depoliticised. It makes me very sad to think that many of these fires were started by my fellow Australians—people who have ruined and changed the lives of so many people and who have even changed the psyche of our country. The fire has been horrendous. The damage and devastation, the loss of life and the way it has changed people’s lives forever has been spoken about by so many members in this House. It shows that members on both sides of this House are very compassionate people.

The extent of this fire—the death and devastation—is, I think, still not known. I look at the Hansard and I see when the Deputy Prime Minister moved the motion on Monday that there were 107 people who were confirmed deceased. By the end of question time, it was 126. When the Prime Minister spoke to us yesterday in the parliament, there were 173 people who had lost their lives. Today when the Prime Minister spoke it was 181 who had been confirmed dead in the fires. They are just numbers, but every one of those numbers is a life that will not be lived. Every one of those people has family and friends who will miss them and who will never quite come to terms with what has happened.

Last year the Friends of Epilepsy had Christine Walker as a guest speaker. I was talking to the Epilepsy Foundation Victoria yesterday and I learnt that Christine’s husband was in Marysville and has not been seen or heard from since Sunday. I think each and every one of us is touched in a particular way. Christine is somebody who has spoken in our parliament to us as members and who is suffering in a very personal way.

I would like to acknowledge the Prime Minister and the role he has played, showing great leadership in being there with the people of Victoria; the Deputy Prime Minister; Minister Macklin; the Leader of the Opposition; the Deputy Leader of the Opposition; and all members of the opposition who have been so devastatingly affected by this event. We have talked about the member for McMillan, who made I think one of the best speeches. I felt very privileged to be in the parliament yesterday when the member for McMillan made his speech. The member
for Bendigo gave a perspective from a different area and made an outstanding speech. The thing that has really struck me is how members of very different political persuasions are all champions for their community. They are part of their community; they are their community. Their community is hurt and they hurt.

Australians come together in the good times and in the bad times. At the time of the Sydney Olympics, all Australians banded together, and that was a time of great happiness and excitement. But we also come together in the bad times. Each and every Australian is supporting those people in Victoria. Within my own electorate on Monday night, Lake Macquarie City Council—which is in my local government area—passed a motion of urgency expressing condolence to the Victorian Premier and congratulating the emergency services. They have informed the Local Government and Shires Associations that, if there is a request for resources, vehicles and personnel, Lake Macquarie are ready to go. The whole of the council is coming together.

Tonight the other council in the Shortland electorate, Wyong Shire Council, also has a motion of urgency expressing its condolences to the family and friends of those who have perished or been injured in the fires. It congratulates the Wyong Shire Council staff, who have raised $10,000 and donated it to the Red Cross. Included in the motion is encouragement to all residents and ratepayers to contribute financially and to donate blood. The council is in contact with local emergency services and the Victorian authorities in order to identify any assistance it they might be able to offer.

In addition to that, I have had some pretty special phone calls in my office. Rob Stirling from Buff Point has three trucks full of goods that he is driving to Victoria. He has made arrangements and is going to do it all at his own cost on Saturday morning. Robbie Baldock contacted me, and he has advised me that the Catholic community on the Central Coast are prepared to donate 500 tents and take them to Victoria via a truck supplied by Energy Australia. There was also a woman who rang my office who had collected goods in her local area and wanted to donate them. There has been such a strong response within the Shortland electorate that I felt I wanted to do something—I felt that, within my community, I would like to show some leadership—so this Sunday between 11.30 am and 2 pm on the Belmont foreshore, on Brooks Parade, near the jetty, we are having a fundraising event.

It started as my idea. I started the organisation and contacted all those people who are involved—we have a sausage sizzle, jumping castle, slide, entertainment, face-painting and bands—but it has been picked up by the community as a whole. The state member for Swansea, Robert Coombs, is involved, and the mayor of Lake Macquarie City Council, Councillor Greg Piper, who is an Independent, of a different political persuasion from me, is joining us. It is a bipartisan approach to this fundraising event. We have the Swansea Lions. The Belmont Chamber of Commerce have been absolutely fantastic. They have assisted with the printing and distribution of flyers and with ensuring that everyone knows about it. Belmont Citi Centre and local businesses are also involved. Lake Macquarie City Council and the mayor, who are allowing us to use the foreshore free of charge, will be involved on the day.

One of my staff members drove by Belmont High School today. They have a big noticeboard out in front of the school, and on that noticeboard they highlight special events that are taking place in the school. They have a notice telling people about the fundraiser down on the foreshore on Sunday. It is a way that the people in my community can come together and do
something. We can collect funds and send money to the people in Victoria. People will have
the opportunity to do more than just feel totally devastated and helpless; they will be able to
contribute toward making better the lives of those people who have lost their homes and, in
some cases, their family and friends.

We must look to the future. The people who are involved and the Australian community as
a whole will move through the grieving process. At first, there will be horror, shock and sad-
ness. Then there will be anger. Eventually, life will return to some sort of normality, but it is
going to take a long time and a lot of help and assistance. We, as members of parliament, must
continue to work together in a way that is not political. We must work together to find some
way to find some positives in this tragedy and to see that it never happens again—at the least,
that it never happens again on the scale that it has here. We must not be distracted from con-
tinuing to work together. We must not seek to attribute blame. We cannot blame the victims.
We cannot blame the government, emergency services or police. We can, but it achieves noth-
ing. To achieve something, we have to be positive and move forward, and we have to do it
together. We need to learn and make sure that the death and devastation never happen again.

I would like to congratulate everyone associated with the response to these fires: the Prime
Minister, the Minister for Families, Housing, Community Services and Indigenous Affairs,
and the Premier of Victoria. I think that the royal commission that he has called for and has
put in place is something that needs to happen, because, as one of the speakers said in the
chamber today, we need to look at what has happened and talk about it and try and take steps
for the future. Congratulations also go to the CFA, the emergency services, all those thou-
sands and thousands of volunteers who have been working down in Victoria and the police
and the ambulance service. We have all got to continue to work together and look to the future
and provide support and compassion to all those people whose lives have been changed for-
ever.

Mrs BRONWYN BISHOP (Mackellar) (6.30 pm)—The words of Dorothea Mackellar
have been used a lot in describing this tragedy that has happened, and of course my electorate
is named after Dorothea Mackellar because she lived there. Her words ‘droughts and flooding
rains’ ring out particularly now, with the floods in the north and this vast, hideous fire in the
south.

In Mackellar we are familiar with fires. In 1994 we had really appalling fires which were
fought valiantly by our Rural Fire Service, our volunteers, and we were fortunate that we had
no loss of life, although there was loss of property—but even that was minimised. Despite the
fact that I watched the roar of those flames and watched the eucalypts explode and the fire-
balls race across the forests and set them alight, I do not think I can quite comprehend the in-
tensity of the fires in Victoria: the sheer heat, the radiating heat, the speed, the lack of warning
and the nearly 200 people who have lost their lives—and that number is still growing. It
numbs the mind to try and come to terms with such a catastrophe and such a tragedy.

In listening to our colleagues who have spoken and whose electorates are immediately af-
fected, you would not be human if you did not feel a catch in your throat and weep silently for
those people, people whose lives will never be the same, people who will be looking for
strength that they will find within themselves but that hopefully will be bolstered by the fact
that they know the rest of the country is pulling with them, feeling with them and determined
to enable them to build their lives again, even though they will not be as they were. And we
are in the middle of it; we do not really know how these fires will be quenched. I think they need two inches of rain, and that is not likely. So we are depending on the willingness and the ability of those people who are courageously continuing to fight those fires.

There is something quite special, though, about the Australian character that brings us together to feel for each other and to reach out and give assistance. It is something quite special about this nation which I trust we will never, ever lose. When the word goes out that help is needed—and I have heard so many members speak about the way in which they have met with people or been involved with people who are raising funds or sending off things that are needed, whether it is to feed animals or clothe the people who have lost everything—there is that spark of generosity that runs true.

I do not think that I have words enough to say how desperately sorry I feel and, in a way, how helpless I feel when it comes to alleviating the pain that is being felt by the people of Victoria. I can just hope that adding a few words in this debate on the condolence motion is just a little signal that says that the people in my electorate and I feel enormously for them, that they are in our prayers and that we will do all we can to give them back something of what they had and give them the courage to fight on.

Ms GRIERSON (Newcastle) (6.35 pm)—I too rise to support this condolence motion and register the heartfelt sympathy and concern of both myself and the people of my electorate, Newcastle, for our fellow Australians, the good and innocent people of Victoria, so tragically affected by these devastating bushfires. To see a map of the fires in this relatively small state, by physical area, shows so well the terrible ‘arc of destruction’, as the Deputy Prime Minister described it, surrounding the outskirts of the city of Melbourne. But to those in the most affected areas, in the Yarra Valley and Gippsland, we say that we are truly sorry for your loss and suffering. Our thoughts are with you and we hope for the day that the fires are stilled and that you may feel healed in body and spirit, optimistic once more about your lives and nurtured by your again strong communities.

The Prime Minister and the Deputy Prime Minister have pledged the government’s determination to assist the process of complete recovery and restitution. I take this opportunity to join with my colleagues from both sides of the House and state my personal commitment to positively influencing this process. I wish to register too my admiration for the members of parliament who represent the affected electorates. In their heartfelt speeches they have so eloquently painted the pictures and told the stories for us and for the Australian public of the overwhelming experiences and emotions endured by their constituents, our fellow men and women, at a time when these victims have other pressing demands and priorities. For sharing that with us, we thank them. It was not easy.

In this parliament and all around Australia we have been moved and tears of compassion have flowed. But we can only imagine the fear, the terror, the pain, the courage, the grief and the despair endured firsthand. Our regret is that so many Victorians do know firsthand, with the death toll now exceeding 180 and anticipated to grow.

To the victims and their loved ones, there are many people in my electorate of Newcastle who know a little of what you are going through. They are thinking of you now and they are remembering. We have had our own tragedies—the 1955 Maitland floods, the 1989 Newcastle earthquake, the 2005 Bali bombings and the June 2007 storms, events that all took inno-
cent lives and wreaked havoc and destruction on many—and they hurt deeply. But compared to the devastation of the 2009 Victorian bushfires they recede in their significance.

Their relevance, though, is in sharing what we have learned from the human experience with the victims of this terrible tragedy. The one thing I know and wish to impress on everyone involved is how important it is to seek and receive help, particularly counselling services, now and in the future. Know also that there is no place for personal guilt or blame. Whatever you did, whatever you did not do, whatever you said, whatever you did not say, whatever you thought—do not feel guilty. You have been tested in a way few people will ever be tested. That you are still here to go on and do good things for yourself and for others must be a priority in guiding your thoughts and actions now.

If you have lost a loved one, you will feel a desolation, a cold and hard black hole in your heart that feels unfillable and all consuming. But your partners, your family members, your friends and your neighbours will feel the same. Just to go on will take all your emotion and energy, but do not turn away and lock everyone out—at least not for too long. Try to turn towards each other and let others in to gain comfort and strength.

Several colleagues in their condolence speeches have quoted Australian literature—poems, particularly—to inspire or draw analogies with these terrible events. Literature does that well, especially Australian literature in its raw honesty. I recall, as I did when this happened, Ruth Park’s autobiographies Fishing in the Styx and A Fence Around the Cuckoo. In one part she tells of her emotions on learning of the death of her partner, D’Arcy Niland. She describes being on a ferry in Sydney Harbour and looking down and not knowing where she was, where she was going, why she was on a ferry or indeed who she was.

Grief does engulf. It takes other humans to lessen the burden. If you lost only property and feel bereft, do not think your loss is not important; it is. Our possessions, the places we work, the places we gather to enjoy the company of others and our homes are part of who we are, of the lives we have lived and of the people we have loved. They matter and their loss matters. If you escaped loss, be glad. Do not be confused or guilty. There is no explanation. Reflect that Mother Nature is a force that predate our human experience. She is at times a marvel and at other times awesome in her power. Her seemingly capricious and cruel ways can never be fully translated or rationalised. It is part of our human existence and the mystery of human life. Try to accept.

Take special care of your older citizens. Their health will suffer. Their recovery will be harder. Watch your children. Although they are resilient and strong and may seem to be coping well, they frequently cannot express what they are feeling and their fears. It will be very hard for them with their schools and their teachers not being there to assist them in that process. So do pay special attention to your children.

To the volunteers, emergency service workers, medical teams, welfare workers and those ministering to the communities in Victoria: from our personal experience in Newcastle we know you are heroes. Thank you. To our ABC: we in Newcastle know how wonderful you have been in Victoria because we remember the voice of 1233 ABC Newcastle during our storms and floods. You gave hope and encouragement, provided vital information and linked people and services around the clock for days when basic services were lost and mobility was constrained. Thank you ABC Victoria.
To the Prime Minister, Kevin Rudd, who came to us in Newcastle in our most recent time of need: thank you for your compassionate leadership in Australia’s greatest emergency. Thank you also for your incisive and analytical understanding of the processes needed to respond to this crisis. To our Deputy Prime Minister: your standing as a Victorian in the House of Representatives in parliament on Monday, whilst so many were experiencing such loss, and representing us all and Australia so well made us immensely proud. I thank you both.

I also thank a constituent of mine, who was a near victim of the 2005 Bali bombing, for his persistence in trying to get governments to understand what is needed to ease the burden for victims of extreme trauma, who require ongoing medical attention and who will relive the horror of their experience over and over. You have been heard and your advice will be given the proper consideration that it deserves. His advice was given more from concern for others than for himself, advice that may now be put into effect to ease the burden of so many Victorians.

Anglican Bishop Dr Brian Farran at a memorial service after the 2005 Bali bombings said: Tragedy is never a private thing, especially in times like this, and in—our community—feelings of affection run particularly deep. The pain of this trauma will be felt throughout the—area—and for members of the community, the pain will continue for some time.

For the people of all those Victorian towns and villages we hope that in some way our caring will help you now and in the difficult times ahead.

Mr NEVILLE (Hinkler) (6.44 pm)—I have always loved poetry, drama and theatre. A poem came back to me this week as we heard the horrific story of the bushfires in Victoria. By today’s standard it is quite a melodramatic poem and even a bit romantic, but there are two themes in the poem: one is the fury of unrelenting bushfire and the other is the Australian spirit of sacrifice. The poem is called Bannerman of the Dandenong and it was written by Alice Werner in 1891. The word that kept coming back to me through the poem was ‘Dandenong’. To many of us who have enjoyed the beauty of the Victorian bush the word ‘Dandenong’ is synonymous with outer Melbourne and, more poignantly in this instance, with the electorates of McEwen, La Trobe and McMillan, where our colleagues Fran, Jason and Russell have been so sorely tested over recent days.

Over the years the Dandenongs have had more than their fair share of bushfires. The link between the word ‘Dandenong’ and what has happened in the past week was not a hard link to make. The poem tells the story of two young men, one returning on his grey horse to see his girlfriend on the Lachlan, the other a horseman from Dandenong who rode a very strong bay horse. Not unlike recent days, the poem tells the story:

There fell a spark on the upland grass—
The dry bush leapt into flame;
And I felt my heart go cold as death,
But Bannerman smiled and caught his breath,
But I heard him name her name.
Then the ride of the young man and Bannerman takes off in earnest as the bushfire develops, and it is oh so familiar to the reports we have received in recent days:

Down the hillside the fire-floods rushed,
On the roaring eastern wind;
Neck and neck was the reckless race,
Ever the bay mare kept her pace,
But the grey horse dropped behind.
He turned in the saddle—“Let’s change, I say!”
And his bridle reign he drew.
He sprang to the ground, “Look sharp!” he said
With a backward toss of his curly head—
“I ride lighter than you!”
Down and up—it was quickly done—
No words to waste that day!
Swift as a swallow she sped along,
The good bay mare from Dandenong,
And Bannerman rode the grey.
The hot air scorched like a furnace blast
From the very mouth of hell;
The blue gums caught and blazed on high
Like flaming pillars into the sky;
The grey horse staggered and fell.

How many stories have we heard in the last week similar to that? Someone stays behind to protect the home; the wife leaves and the husband is never to be seen again. These scenes have been reported over and over again in the 118 years since Alice Werner wrote that poem.

As we speak, we know that 181 people have died, which is moving towards three times the scale of the next worst incident that has been recorded in Australian bushfires, and we know that at least 800 homes have been lost. But the story is not much different. The image of the horse has been replaced by the image of the car. The basic story stays the same. Some cars escaped; others were engulfed like Bannerman’s horse, never to be seen again or just to be left on the roadside, burnt so much that the metal is almost white.

Many of the other stories of this bushfire have been eloquently conveyed by my colleagues, so I will not go over the same things again. But there are three images, perhaps even more than images—realities—that come back to me. The first is the faces of children. To open the paper and see the faces of children from the one family who have been lost is just overwhelming. There can be no greater loss or sadness than the loss of children by parents; almost of
equal sadness is the loss of parents by children. And we have seen plenty of that in those 181
deaths.

The other image that touches me very much is the one of three firefighters—it looks like a
girl and two men—lying by the side of the road in a little bit of green grass, trying to catch a
moment of sleep before encountering the next fire. That, to me, is a very potent image. It is
emblematic of the commitment of the firefighters, the SES, the Army, the police, the ambu-
lance officers and the community organisations who provide food, shelter, clothing and the
like. They are all practised in their art. Those three young people sleeping by the roadside are,
as I said, emblematic of those who after exhaustion have to line up again for another period of
intense activity. The topography of Victoria in particular but of the southern states generally
dictates that these areas will burn. Given the right conditions, there will be very fierce fires. It
is a fact that we have to live with.

The other image that comes to me is that of accountability. Today is not the day to go into
who is to blame, whether there was too much fuel on the forest floor or any of that sort of
thing. That is for others to deal with. But I am very heartened by the promise of the Victorian
Premier that there will be a full and frank royal commission. He is supported by the Prime
Minister in that. He did say that all things will be on the table. I think that is commendable,
and I ask that everyone cooperate with that royal commission. There was a study of this par-
liament into bushfires not so many years ago, in which at least one state would not cooperate.
What a shame that was. We cannot afford to let that happen again. We need total and utter
cooperation. I hope the other states will introduce parallel legislation so that, even though it
will be run in Victoria, it can become a national royal commission. It should not just be, in my
opinion, putting things on the table. What is infinitely more important is that, after the report
is written and the recommendations are made, those recommendations are acted on. How of-
ten we in this place have seen great reports that have not been acted on. We cannot afford to
have in a few years time another conflagration that perhaps is three times this one. This
should be the line in the sand.

The other thing I ache for is the people who have lost their homes. When it first happened,
we had commentators on the radio and television saying: ‘These people must never return to
these places again. They are going to have to go and live somewhere else.’ That really off-
fended me. God, how that offended me. Australians have a love affair with the bush. Many
people do. Some people like solitude in the bush, in the jungle in North Queensland, in the
mountains of Victoria or wherever it might be. We have to make sure that our preparedness is
good, that things like back-burning are well done and that there is a routine for these things.
To diverge for a second, some people in my electorate were told at one stage by Main Roads
that they could not burn along roadsides. They were doing it voluntarily. You know what
farmers are like. They never light a fire unless it is a slow burn. In the end, they gave up look-
ing after the sides of the roads in some parts of Queensland. It was not many years before
Main Roads came back and said, ‘Would you start doing the roads again?’ We have to this
time be humble enough to know where the mistakes were made and to make sure they do not
happen again.

There is the idea too that people who want to live in those places should have a shelter of
some sort. After all, the Americans have been doing this for nearly 100 years. They have cel-
lars and underground bunkers. In the twister country, that is second nature. The few that did have them in this circumstance used them to survive. We have to do that.

The other thing we have to remember is that most of us—not all of us—come from an Anglo-Celtic background. I remember an old Irish priest whom I knew many years ago, addressing a group of businessmen in Bundaberg and saying he was going back to Ireland to retire. We said, ‘Why don’t you stay in Australia?’ He was trying to explain it to me. He said, ‘There’s an Anglo-Celtic syndrome in all of us.’ He recited Oliver Goldsmith. I cannot remember the exact quote, but it went something like this: that the Celtic person returns with the swains to where he was born ‘to die at home at last’.

I suppose a lot of people will want to go to their homes not just in defiance of the fire and because they are comfortable with the area but because it says, more eloquently, that that is relevant to them. It says that that is where they want to live. That is their magnet. That is what they come home to. Probably many of them would be happy to die there—although not in these sorts of circumstances, of course. I think a lot of respect has to be handed out to those people when the time comes. We need to work very carefully to make sure that we replace not only the physical goods but also the psychological. That will not be an easy task.

At the time of our intervention in East Timor, I ducked a speech that I was going to give in this place, and I have regretted it every day since. What I was going to suggest to the government of the day was this: if we wanted to have a real engagement with East Timor, every town and city in Australia should adopt a town or village in East Timor. I was going to suggest that we should use that as a basis for empowering the people of that town or village. It might be to give them an old horse plough that has been sitting in the back shed for years. It might be to give them a couple of tinnies so that they can fish and be self-reliant. It could involve sending a group of Rotarians or Lions over there to restore or build a school. In fact, there are a group of Rotarians in my area of Queensland that, for a number of years, have been going over to the Solomons to build high schools. So it can be done. These sorts of things are not impossible.

We have had lots of offers of help in my office. One CWA organisation raised $20,000 in a morning just recently, virtually with no notice at all. I get a lot of people ringing up with good ideas. A certain Toni Sargent from Hervey Bay wrote to me, and since then I have spoken to her mother, Kayleen Bilson. What is interesting about these two people is that they came from Diamond Creek, so this fire is resonating very strongly with them. Their suggestion was very similar, and that is what made me say what I have just said—that is, that every town should adopt a town. We have big provincial cities that could adopt a village.

There will be certain things that state and federal governments will do and that insurance will do, but there will still be gaps at the end of that. We know that, with the best will in the world, there will still be gaps. It might be that you restore the civic hall or the community hall. It might that you provide one of those $30,000 or $40,000 new, coloured playgrounds that are becoming so popular around Australia. It might be that a busload of Rotarians or Lions come down from some town in New South Wales or Queensland to re-grass and replant the civic park. If we had a list of all the towns and villages in the fire areas, then people from bigger cities and towns—obviously they would need to be bigger so that they would have the gravitas to be able to help—could go in and do practical things to bring those very beautiful communities back not just in a utilitarian sense but in a meaningful and aesthetic way so that
the scars of these dreadful bushfires will be behind us. It has been a great test of us all and I hope Australians will continue to be generous. I throw that suggestion on the table—that cities and towns adopting small towns and villages could be a very good and tangible way for us to show solidarity between various parts of Australia and this ravaged landscape.

I would like to conclude my presentation today with another stanza from that poem. It tells the story of the boy who has been through the bushfire. His mate has gone and, like a lot of the firefighters we have seen on TV and some of the animals we have seen come out of the fire areas, it says:

She bore me bravely, the good bay mare;
Stunned, and dizzy and blind,
I heard the sound of a mingling roar,
‘Twas the Lachlan River that rushed before,
And the flames that rolled behind.

That should be our image—that, as the flames roll behind, we take these people who have been so sorely hurt, as it were, to the Lachlan, to fresh water and fresh life.

Mr SNOWDON (Lingiari—Minister for Defence Science and Personnel) (7.01 pm)—I acknowledge the contribution of my friend Mr Neville and thank him for it. As were all the contributions which have been made in this discussion, it was heartfelt, resonating across the chamber of this great parliament of ours to see how we can positively work together. The imagery which he painted through the poem gives those of us who know anything about this part of Victoria a good insight into the sort of country which has been traversed and the magnificence of these fires, the horror of them and the courage of those who seek to survive them. It also illustrates to me the contrast of this great country of ours. I live in the dead heart—it is not dead but it is almost at the dead centre—of Australia. My electorate is 1.34 million square kilometres and traverses the country from the dry deserts to the tropics. It used to include the great city of Darwin.

My neighbour on one side is the member for Kennedy and the member for Maranoa is lower down. We see the dichotomy that exists across this country—the floods which have appeared in the backyards of people in north-eastern Queensland and across the north, the recent flooding of the Barkly Highway, where traffic was stopped for almost a fortnight and, at the same time, we have the horror of these fires. The contrast is just so obvious but we who live in this great country of ours live here understanding the ferocity of it and its extremes. We understand it and live with it and at times it shocks us. It has shocked us in this past week with the horror that it can bring to us through its magnificence. I have reflected a long time on these issues over many years, to see those contrasts and to look at the beauty of the country—its magnificence but its dangers. We see those dangers writ large in this great bushfire which has wrought such damage upon the lives of so many in Victoria.

I know that I can say absolutely that the prayers and thoughts of all of my constituents—and, I am sure, of the people across the rest of Australia—are with the communities of Victoria that have been devastated by these fires that razed and continue to pose a threat in a number of locations across the state. I know that Territorians will stand ready to support these communities in their hour of need. I know that Alice Springs has opened up its heart, fundraising has begun and a number of events are scheduled for the month ahead. In other major
Territory centres in my electorate—Katherine, Tennant Creek, Nhulunbuy and Yulara—a community response is underway, and we know that response is the same across the nation. Over the last weekend I was on Christmas Island, way over there in the Indian Ocean. Donations have been collected there to assist the national appeal for funds.

Territorians know only too well how generous Australians can be when tragedy strikes. Over the Christmas-New Year period of 1974, Territorians welcomed the support of the Australian community in their hour of need. Tropical Cyclone Tracy devastated the city of Darwin on Christmas Eve 1974. Tracy killed 71 people and destroyed more than 70 per cent of Darwin’s buildings, including 80 per cent of its houses. Tracy left homeless more than 20,000 people, out of a city of 49,000 inhabitants, and required the evacuation of over 30,000 people. The recovery task required the concentrated effort of the national government, just as in this case the recovery task requires a national effort by this government. It required the skills of our service men and women. It required the skills and the contribution of community organisations. Those of us who know of this history know that most of Darwin’s population was evacuated to points south—to Adelaide, Whyalla, Alice Springs and Sydney. In time, Darwin was rebuilt through a magnificent national effort. Now we have a great city.

There are still those who bear the scars of that fateful and dreadful night of Christmas Eve 1974, but what is significant and what I know to be true of these communities in Victoria is that they will come back just as the people of Darwin went back and, with the national effort, rebuild their city and, through doing so, rebuild their lives. Cyclone Tracy was a disaster of the first magnitude that, until now, was without parallel. Now, oh so sadly, we have seen something far worse in its human tragedy. It is for all of us a time of immense and overwhelming grief and sadness.

The imagery which we have seen on our national media tells us not only about the resilience of people and the contribution that can be made by a community and the love that people really have for one another. It tells us how we need to strive together to overcome the adversity. As has happened in previous times, including after Cyclone Tracy, the magnificence that is within us all can be brought to bear on a problem and make our neighbours and families feel close to us even though geographically they could be 1,000 kilometres away.

All of us, but especially those with children—who know the delight of having a family—see the horror of families being destroyed by this fire, but we know that despite the horror, the sadness and the suffering we are a resilient country. Whilst we see the ravages that can be brought about through the harsh environment within which we live, we live with it. We need to accommodate it, but we should not allow it to oppress us. I know that out of this experience we will find improvement, and the learning that will be had as a result of this tragedy will be like the learning which came out of Cyclone Tracy. We have heard discussion this evening, during the course of this debate and in the public domain, about what might be done to fireproof homes. After Cyclone Tracy, all the building codes changed in the Northern Territory. All new government houses had a cyclone shelter. I arrived in Darwin the year after the cyclone and houses were devastated. The community was rebuilding. It took a decade to rebuild the physical infrastructure. I lived in a new government house built after the cyclone. The centre of the house was a concrete bunker—the cyclone shelter. I am not sure that that is the solution or a solution or something that should even be contemplated, but it seems to me that all of these things should be thought about.
There will be many other things that we can learn from the experience. It is enough, though, that we accept our responsibility as the national parliament, as legislators and as community leaders to do as we have done: work together to assist and provide the leadership that the community obviously wants us to show and in a bipartisan way demonstrate to the Australian community that we, working together, can assist them in their most horrible hour of need. I am confident that, given the dedication which has been shown already, the commitment which has been shown by the Prime Minister, the government, the Leader of the Opposition and opposition party members, we can make that happen. Through the goodwill that we are showing in this place, one can hope it might transcend to a whole lot of other debates that we might have. Perhaps we can work more collaboratively on a whole range of other issues. I would like that opportunity.

I must say in conclusion that, as Minister for Defence Science and Personnel, it is with great pride that I note the work which is being done by members of our defence forces, both in Victoria and in Queensland. They are great people. Let there be no doubt about it: they are great people. We owe so much to members of the defence forces—others have spoken about this and I will just repeat it in part at least—to all of the volunteers, to the emergency services, to the country fire people, to the police doing their work, to the NGOs, to the Red Cross and to people who are just doing their bit. In my view, it just goes to show what real love can do.

Mr Andrews (Menzies) (7.14 pm)—I rise with considerable sadness to join the previous speaker, the minister, and other members to speak on this condolence motion for the victims of the tragic bushfires in Victoria. These are awful and horrific times for us, especially for those who have been so badly affected by the fires.

Growing up in rural Gippsland, not far from where some of these fires have occurred, we were always aware of the dangers of summer and of fire. At the beginning of each summer, we would re-plough the firebreaks in the paddocks around the farm and clean up the foliage and growth around the buildings and the houses. Farmers would overgraze the home paddock as added protection for the house in case, as inevitably happened at some stage, fire came long.

I can recall as a child the warning, the wail, of the CFA bell in the nearby town on a regular basis—one a week as the CFA practised with the volunteers who would turn up—but then on other occasions when not expected, as an indication that there was a fire somewhere nearby. Often it was a grass fire in that area, but sometimes it was a lightning strike. I can remember, in particular, haystacks going up in fire. But, worse than that, on occasions there was a fire in the nearby hills, in the foothills of the Great Divide to the north, when places like Licola and Dargo and, closer to home, Briagolong, were under threat, or, a few miles to the south, in the foothills of the Strzelecki Ranges, where fires from time to time would break out.

At this time just a week ago that is what happened again. These fires at Callignee and through that part south of Traralgon are in places that are familiar to me from my childhood. They were the hills where we would go for a drive on the weekend and have a picnic. They were the farms where my father, who ran a livestock transport business, would collect stock to take to market. Those places were part and parcel of the neighbourhood in which I grew up.

The tragedy is that, once again, we see fires returning. Indeed, just before coming here to speak tonight, I phoned my brother, who lives near Willung, Gormandale—that area, a few miles from part of the latest fires—just to ask what was happening. They said that things were
okay at the moment. In fact, they have just had a bit of rain. It is not enough rain; a lot is needed to put these fires out, but at least they have had little bit. And the wind is not blowing in their direction. But, if it does and the fire gets into the pine plantations, they will go up like a tinderbox. And who knows how many kilometres the fire could travel in a short period of time?

The damage is so great because of a combination of factors: the furious winds that we had, particularly on Saturday, in Victoria; the extreme heat, which others have spoken about; the tinder-dry bush; and, of course, the unique nature of eucalypt forests in Australia, which adds to the ferocity of fires which occur under these circumstances. The damage is also compounded by the fact that greater Melbourne extends these days to areas that it once did not—areas such as Pakenham, to the east—which are dozens of kilometres from the CBD and are now at the extent of the urban sprawl and to towns like Narre Warren; to the south, Cranbourne; up in the Dandenongs, Cockatoo and Gembrook; and, further to the north, Kinglake, Whittlesea and St Andrews. Once these were small villages and hamlets, miles away from what we regarded as suburban Melbourne. You would drive out through farmland and paddocks to get to these places. But the reality today is that they are encompassed by what we would overall describe as metropolitan Melbourne.

That means that there are many more people living in much closer settlement than there were even 10, 15 or 20 years ago and, of course, when a fire then comes through those areas there are potentially so many more victims, as unfortunately and tragically we have seen over the last week or so. Indeed, some of these places are so close that towns like Kinglake, Kinglake West, St Andrews and Whittlesea are places that I and friends of mine often ride our bikes to on weekends. They are not that far from where I live, and you would regard where I live in my electorate as much more central to Melbourne than these sorts of places. The reality, and this is part of the challenge, is that when we come to ask the hard questions and look for answers we will need to address this continuing spread of metropolitan Melbourne—and this occurs in other cities around Australia—into areas that were once regarded as bush. Yes, there were small villages and hamlets there, but they were not populated to the extent they are today. I remember the same thing was occurring, at the time of the Ash Wednesday fires, at Macedon and Mount Macedon and places like that. I was a lawyer at the time and spent about a week or 10 days coordinating a voluntary legal relief information and advice service for victims of those fires at Macedon and Mount Macedon. The spread of population is even greater now than it was, tragically, at the time of Ash Wednesday.

These are issues that we have to address when we come to ask the hard questions. In the meantime it is appropriate that this parliament offers its condolences to the victims and their families—those that are known tonight and, tragically and regrettably, those that we will only come to know of in the days and weeks ahead.

Anybody who has been to a fire location such as this knows the total and utter devastation that a fire causes. It is indescribable. And it is not just the scene; it is the smell, the atmosphere, which, having breathed, is difficult to get out of your mind and your senses for a considerable time afterwards. In those circumstances we owe a particular debt of gratitude to all those who have been fighting and are continuing the fight against this natural catastrophe. I think of people like the members of the CFA at Warrandyte in my electorate and of the other CFAs, not just in my electorate but elsewhere, who are out fighting fires in neighbouring ar-
eas. I think obviously of the Salvation Army and the other charitable organisations and of the hundreds if not thousands of volunteers. I think of the members of the SES, also volunteers, who give up their time to do this work. There are many others who are not so visible but whose efforts and services are equally invaluable at this time. I saw an email from one of my local councils, Maroondah—which borders Yarra Ranges, the next council, whose area is affected by this—indicating how officials and officers from Maroondah council are out there assisting in the Yarra Ranges area. I am sure this is the case for so many other councils and government departments. There are also thousands of other people who are doing what they can in these circumstances. Then there are the ordinary people who are making donations in their millions. There is such generosity from so many people in this country who have gone through their clothing or toys or found the bike sitting out in the back shed that is no longer used and have thought, ‘Maybe there are kids somewhere in this fire ravaged area who have lost not just their bikes but everything, but this at least might bring some joy back into their lives at a time of great mourning and tragedy.’ To everybody who is contributing in this way we owe our heartfelt thanks at this time.

There is a pall hanging over these areas. It is not just a pall of smoke and smell; it is a pall that affects the atmosphere and people’s thinking. I have spoken to people in my electorate, members of my family and my friends. We are all burdened, in a sense, by what has happened. Everybody is bewildered by it. We ask those questions which we all ask at times of tragedy: how could this happen? How could so many people, in such an indiscriminate manner, be the victims of this? There is that grieving and bewilderment at this time. That will turn to anger, and much of that anger will be righteous anger. That is appropriate. The grieving process will not occur unless people have the opportunity to express that. As observers we must support them at that time as much as we are supporting them now during this time of bewilderment over how this could happen.

It is appropriate that we have inquiries into these matters. Those inquiries, I will simply say, should be complete and should be timely. We owe it to the victims to have complete inquiries that ask the hard questions and do not shy away from looking at the issues that need to be looked at if we are going to try and prevent or militate against such a tragedy occurring in the future. As I said, the inquiry should also be timely, not one of those things that go on for years until it is all forgotten and we have moved on but those who have suffered are still grieving and in many cases still traumatised. As a community we owe them a timely response to what has occurred.

The sad reality is that fire is capricious and indiscriminate. Some who were well prepared have perished. Others were saved by a shift in the wind or the fact that the fire jumped their house—what seems to us just sheer luck, because there can be no explanation as to why one house stands in a street where eight or a dozen or 20 others were totally destroyed. As the member for Gippsland said today, the psychological or mental suffering of the people who survived, who wonder, ‘Why me?’ is just as great, I suspect, as the suffering of those who lost family and friends in this tragedy. This fire favoured neither the rich nor the poor. It favoured neither the young nor the old. It favoured neither the farm nor the town.

We live in both a beautiful and a terrible country. It can be both things at once. It has always been thus, and I suppose it always will be thus, but it is our duty as legislators and as elected leaders and representatives of our communities right across this nation to do our ut-
most to ensure, insofar as possible, that we prevent such tragedies from occurring in the future.

I conclude my remarks, which are so inadequate in response to this tragedy, in this way, Mr Deputy Speaker: we hope that our words will bring comfort, that our actions will provide support, that our prayers will bring relief and healing and that our common humanity will unite us to do all that we can for those who are suffering tonight because of their losses.

Debate (on motion by Mr Raguse) adjourned.

Main Committee adjourned at 7.29 pm
QUESTIONS IN WRITING

National Rental Affordability Scheme
(Question No. 408)

Mr Morrison asked the Minister for Housing, in writing, on 24 November 2008:

In respect of the National Rental Affordability Scheme: (a) what is the geographic breakdown of the scheme’s projects; and (b) how many applications for the scheme could be classified as (i) inner city, (ii) middle ring suburban, (iii) outer suburban, and (iv) regional/rural.

Ms Plibersek—The answer to the honourable member’s question is as follows:

(a) The number of rental properties that have been offered incentives or are being still being considered for offers of incentives in each of State or Territory is included in the following table.

<table>
<thead>
<tr>
<th>Incentives allocated</th>
<th>ACT</th>
<th>NSW</th>
<th>QLD</th>
<th>SA</th>
<th>TAS</th>
<th>VIC</th>
<th>WA</th>
<th>TOTAL</th>
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<td></td>
<td>56</td>
<td>507</td>
<td>448</td>
<td>422</td>
<td>587</td>
<td>379</td>
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<td></td>
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<td>726</td>
<td>422</td>
<td>587</td>
<td>696</td>
<td>3962</td>
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</table>

(b) Data relating to the Round One Call for Applications under the National Rental Affordability Scheme was not collected according to categories of inner city, middle suburban, outer suburban and regional/rural. The first round attracted applications with projects covering the following geographic locations:

<table>
<thead>
<tr>
<th>ACT</th>
<th>NSW</th>
<th>QLD</th>
<th>SA</th>
<th>TAS</th>
<th>VIC</th>
<th>WA</th>
<th>TOTAL</th>
</tr>
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<tbody>
<tr>
<td>Calwell</td>
<td>Bankstown</td>
<td>Bellmere</td>
<td>Adelaide</td>
<td>Bicheno</td>
<td>Avondale Heights</td>
<td>Armadale</td>
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<td>Evatt</td>
<td>Bega</td>
<td>Coomera</td>
<td>Elizabeth East</td>
<td>Blackmans Bay</td>
<td>Dandenong</td>
<td>Ballajura</td>
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<td>Canley Vale</td>
<td>Gympie</td>
<td>Elizabeth</td>
<td>Burnie</td>
<td>Footscray</td>
<td>Beechboro</td>
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<tr>
<td>Kaleen</td>
<td>Cardiff</td>
<td>Holmvie</td>
<td>Elizabeth</td>
<td>Claremont</td>
<td>Bertram</td>
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<td>Hampstead</td>
<td>Devonport</td>
<td>Brookdale</td>
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<tr>
<td>MacGregor</td>
<td>Charmhaven</td>
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QUESTIONS IN WRITING
National Rental Affordability Scheme

(Question No. 409)

Mr Morrison asked the Minister for Housing, in writing, on 24 November 2008:

How many National Rental Affordability Scheme applications involved: (a) tax offsets; and (b) the payment of cash incentives.

Ms Plibersek—The answer to the honourable member’s question is as follows:
The Round One Call for Applications under the National Rental Affordability Scheme attracted 70 applications, of which 30 were seeking cash payment as endorsed charities and 40 were seeking a Refundable Tax Offset.

National Rental Affordability Scheme

(Question No. 410)

Mr Morrison asked the Minister for Housing, in writing, on 24 November 2008:

How many National Rental Affordability Scheme applications were submitted by: (a) local government authorities; and (b) State and Territory government agencies.

Ms Plibersek—The answer to the honourable member’s question is as follows:
The Round One Call for Applications under the National Rental Affordability Scheme attracted 70 applications, of which 2 were submitted by local government authorities and 1 by a State/Territory government agency.

National Housing Supply Council

(Question No. 411)

Mr Morrison asked the Minister for Housing, in writing, on 24 November 2008:

On what date is the first report of the National Housing Supply Council expected to be released.

Ms Plibersek—The answer to the honourable member’s question is as follows:
Publication of the National Housing Supply Council’s State of Supply report (2008) is expected to occur in February or March 2009.
National Housing Supply Council
(Question No. 412)

Mr Morrison asked the Minister for Housing, in writing, on 24 November 2008:

(1) Will the National Housing Supply Council (NHSC) hold discussions with members of Infrastructure Australia as part of its assessment of land supply issues.

(2) What are the names of the organisations that the NHSC has consulted as part of its ordinary activities.

Ms Plibersek—The answer to the honourable member’s question is as follows:

(1) The Chair of the Council wrote to the Chair of Infrastructure Australia in November 2008 proposing a meeting in early 2009.

(2) Organisations/Agencies consulted by the National Housing Supply Council included:

- Australand Holdings
- Australian Demographic and Social Research Institute – ANU
- The Australian Bureau of Statistics (ABS)
- The Australian Institute of Health and Welfare (AIHW)
- The Australian Housing and Urban Research Institute (AHURI)
- BIS Shrapnel
- The Chief Minister’s Department (ACT)
- City Futures Research Centre at the University of New South Wales
- Delfin Lend Lease (South Australia and Northern Territory)
- Dennis Family Homes (Victoria)
- Department of Families and Communities (South Australia)
- Department of Health and Human Services (Tasmania)
- Department of Housing (New South Wales)
- Department of Housing (Queensland)
- Department of Infrastructure and Planning (Queensland)
- Department of Planning (New South Wales)
- Department of Planning and Community Development (Victoria)
- Department of Planning and Local Government (South Australia)
- Department of Planning and Infrastructure (Northern Territory)
- Department for Planning and Infrastructure (Western Australia)
- Department for Primary Industries and Resources (South Australia)
- Housing Institute of Australia
- Housing South Australia
- Landcom (New South Wales)
- Land Management Corporation (South Australia)
- Langford-Jones Homes
- The Productivity Commission
- The Property Council of Australia
- Real Estate Institute of Victoria

QUESTIONS IN WRITING
Visas

(Question No. 432)

Dr Stone asked the Minister representing the Minister for Immigration and Citizenship, in writing, on 27 November 2008:

(1) How many episodes of 457 visa employer non-compliance occurred between November 2007 and November 2008?

(2) What type of non-compliance occurred?

(3) Is the trend in non-compliance rising, falling, or has it plateaued?

Mr McClelland—The Minister for Immigration and Citizenship has provided the following answer to the honourable member’s question:

(1) For the period between 1 November 2007 and 1 November 2008, 1544 formal warnings were issued and 165 sanctions imposed on sponsors for breaches of the sponsorship undertakings (noting a sponsor may have received more than one warning over this period and that warnings or sanctions may be imposed as a result of more than one breach).

(2) The types of non-compliance are in relation to:
   • Non-cooperation with monitoring within the required timeframes.
   • Not notifying the department of cessation of employment within 5 working days.
   • Failure to meet the Minimum Salary Level.
   • Employing a person in breach of immigration laws.
   • Not complying with workplace relations laws.
   • Not notifying of changes of circumstances and/or information affecting the businesses capacity to meet its undertakings.
   • Not working in the nominated occupation.
   • Not making Superannuation contributions.
   • Not deducting tax instalments.
   • Providing false and misleading information.

(3) For the period 1 November 2007 through to the end of the 2007/2008 financial year there was an increase in detected instances of non-compliance by Subclass 457 sponsors of their sponsorship obligations. New monitoring policy has given particular emphasis to improved analysis and targeting of sponsors operating in high risk areas of the program, such as the construction, manufacturing and hospitality sectors. The increase in the number of detected instances of non-compliance by Subclass 457 sponsors over this period suggests that the Department’s risk profiling is correct.

The first four months of the 2008/2009 financial year has seen a gradual decrease in detected instances of non-compliance by Subclass 457 sponsors. This suggests that the Department’s focus on awareness raising, education, promoting compliance with employer’s sponsorship obligations and rectifying identified breaches is having an impact.
Taekwondo

(Question No. 522)

Dr Southcott asked the Minister for Sport, in writing, on 3 December 2008:

In respect of the sport of Taekwondo—

1. Has she personally met with: (a) Taekwondo Australia; and (b) Sports Taekwondo Australia (STA); if so, on what date(s).
2. Has she had any contact with the World Taekwondo Federation; if so by what means, and on what date(s).
3. Has the National Sporting Organisation (NSO) grant for Taekwondo for the 2007-08 and 2008-09 financial years been acquitted by the Australian Sports Commission (ASC); if so, to which body was it paid.
4. Which body is the NSO for Taekwondo.
5. What steps does the ASC require before accrediting a NSO for Taekwondo.
6. What steps does the Australian Olympic Committee (AOC) require before accrediting a body to represent Taekwondo.
7. What remaining outstanding governance issues must Taekwondo Australia address before it is compliant with the ASC guidelines.
8. What action has she taken to mediate the dispute between Taekwondo Australia, STA, the ASC and the AOC.

Ms Kate Ellis—The answer to the honourable member’s question is as follows:

1. (a) I met with representatives on Taekwondo Australia on 1 December 2008. (b) I have not had a Sports Taekwondo Australia meeting.
2. I have not had any contact with the World Taekwondo Federation.
3. There were no grants provided to National Sporting Organisations for the sport of Taekwondo in the 2007-08 or 2008-09 financial years and consequently there is no acquittal necessary. All high performance costs associated with the preparation of the Olympic squad for Taekwondo were provided through the AIS program budget.
4. There is currently no recognised National Sports Organisation for Taekwondo in Australia.
5. Before any organisation can be recognised as a National Sporting Organisation by the Australian Sports Commission, a necessary first step would be to satisfy the Australian Sports Commission recognition criterion requiring membership of the sports international body. Pending membership of the sports international body any organisation seeking Australian Sports Commission recognition would need to make an application for recognition against all the Commission’s recognition criteria, which are publicly available on the Commission’s website www.ausport.gov.au
6. The Australian Olympic Committee is an independent body not funded by the Australian Government. Membership of the Australian Olympic Committee is a matter for the Australian Olympic Committee.
7. There are a number of governance issues that have been identified as a result of the Taekwondo whole of sport review completed by the Australian Sports Commission in 2007. A full copy of this review was provided to representatives of Taekwondo Australia. The Australian Sports Commission met with the representatives of Taekwondo Australia on 1 December 2008 to discuss the key governance issues to be addressed by the sport.
The Australian Sports Commission has since written to Taekwondo Australia confirming these requirements. While there are a significant number of recommendations in the Australian Sports Commission review, the major governance issues relate to:

- democratic membership and voting structures;
- independence of Board members;
- the ability and authority for the elected Board to appropriately lead the sport; and
- an ongoing commitment to cultural reform.

(8) I have requested that the Australian Sports Commission continue to provide advice and support to Taekwondo Australia to resolve their governance issues.