MINISTERS OF STATE (POST-RETIREMENT EMPLOYMENT RESTRICTIONS) BILL 2002: Second Reading

Senator STOTT DESPOJA (South Australia—Leader of the Australian Democrats) (4.46 p.m.) —I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in *Hansard.*

Leave granted.

The speech read as follows—

This Bill deals with the ongoing furore surrounding post-ministerial employment. Revelations that senior Government ministers who retired at the last election took up lucrative consultancies in areas related to their ministerial responsibilities have prompted a public outcry. The Government stands by its policy of failing to restore public confidence in the integrity of ministerial office holders.

It is the Government's failure to act on this issue that has motivated this Private Senator's Bill. The Government should introduce its own legislation to address matters relating to the conduct of its own ministers. That has not occurred. This Bill sets out standards that the Government should have implemented some time ago to bring Australia into line with the standards that apply in democracies throughout the world.

Former Minister for Defence, Peter Reith, walked straight into a consultancy for Tenix Defence Systems after leaving Parliament. The Minister was privy to top secret information about the needs, capabilities and weaknesses of the Commonwealth. Australia's national security is at risk when a recently retired Minister for Defence sells his services to a private firm in the defence industry.

Resolving conflicts of interest is an ongoing requirement. It is not an issue that only applies when the office is held. Ministers are given privileged information to allow them to discharge their duties as servants of the people, not to enable them to pursue private contracts for personal financial gain.

In a similar vein, former Minister for Finance, John Fahey, has taken a position with investment bank JP Morgan. Former Minister Wooldridge has taken a position as a part-time consultant to the Royal Australian College of General Practitioners.

The community is rightly concerned about the role these former ministers will play in these organisations. Will they be used to facilitate preferential treatment or privileged access to Government? Their use as advisers or lobbyists can only reduce public confidence in the independence and impartiality of the decision-making processes of government.

This behaviour is not tolerated in other democracies and should not be tolerated here. In the United States of America, former officers and employees of the executive branch are subject to a range of restrictions. They face a 2 year restriction on lobbying in their former area of responsibility. Failure to comply with this restriction carries a maximum five-year jail term.

The Canadian Conflict of Interest and Post-Employment Code for Public Office Holders (1994) sets out detailed restrictions on ministers and other public office holders both before and after leaving office.

The UK Ministerial Code requires Ministers to seek advice from the independent Advisory Committee on Business Appointment about any appointments they may wish to accept within two years of ceasing to be a Minister.

The Democrats' Bill draws on these international precedents, but also takes into account the expectations of the Australian community and the past conduct of Australian ministers.

The Bill applies to ministers and senior ministerial advisers. It has three objectives:

Firstly, to ensure that Ministers and ministerial advisers shall not act after they leave office in such a manner as to take improper advantage of their previous office.

Secondly, to enhance public confidence in the integrity of ministerial office holders and the independence of the decision-making processes of government by establishing clear rules of conduct regarding the post-employment practices of Ministers and ministerial advisers.

Thirdly, to eliminate the possibility of preferential treatment or privileged access to government being obtained from or through Ministers and ministerial advisers after they have left office.

In pursuit of these objectives, the Bill places restrictions on Ministers and ministerial advisers both before and after leaving office.

Prior to retirement, section 5 of the Bill prevents Ministers and ministerial advisers from allowing themselves to be influenced in the conduct of their official duties and responsibilities by plans for or offers of employment or other remuneration for when they leave office.

This would prevent a Minister from allocating funds to, or making decisions in favour of, a particular organisation prior to leaving office with a view to securing employment with that organisation. We have seen recently that the mere suspicion of such activity is damaging to public confidence in the integrity of ministerial office-holders. There has been intense scrutiny of the decision by Dr Wooldridge to grant $5 million of public funds to the Royal Australian College of General Practitioners prior to stepping down as Minister.

If this Bill were enacted, Ministers and their advisers would know that they would face the full sanctions of the criminal law if they allowed themselves to be influenced in their duties by the prospect of future employment.

Favouritism from a Minister in return for post-ministerial employment is nothing short of corruption. This Bill would substantially lessen the potential for such largesse by impressing upon Ministers and their advisers how seriously such conduct is taken by the community.

In addition to these pre-retirement restrictions, there is a range of post-retirement restrictions. The Bill provides for a two-year cooling-off period after ministers and their advisers cease to hold office. During this time, they are prohibited from engaging in three broad classes of activity.

Firstly, they must not provide advice for profit or commercial advantage on the work of their former department and its agencies.

Secondly, they must not accept employment or enter in consultancy agreements with any entity with which the department had significant dealings in the previous two years.
Thirdly, they must not make representations for profit to the relevant department and its agencies on behalf of any person.
There are a number of important exceptions which allow former ministers and their advisers to work for a range of organisations. They can work for charitable organisations, the Commonwealth, political parties and, with the approval of the Minister for Foreign Affairs, international organisations and foreign governments.
The restrictions in this Bill are carefully measured to strike the right balance between allowing former ministers and their advisers to make an ongoing contribution to public life while not acting improperly in terms of their position of privilege.
Failure to comply with these restrictions will constitute an offence punishable by two years imprisonment or a fine not exceeding $250 000. These penalties are a reflection of the very serious nature of this issue and are within the scope of international precedent. It is perfectly appropriate that the integrity of our political system be defended by the full force of the law.
This Bill is a necessary response to a matter of great community concern. It draws on credible international precedents. Over time, the recent scandals may fade from public view but if the underlying structural problems remain unaddressed, the same problems will arise again and again. On behalf of the Australian Democrats, we commend this Bill to the Senate and urge the Government to support it to finally force its Ministers to observe proper standards in relation to post-ministerial employment.

Senator STOTT DESPOJA —I seek leave to continue my remarks later.

Leave granted; debate adjourned.