LEGISLATIVE COUNCIL

Thursday 28 November 2002

The PRESIDENT (Hon. R.R. Roberts) took the chair at 11 a.m. and read prayers.

STANDING ORDERS SUSPENSION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to allow petitions, the tabling of papers, question time and orders of the day, private business to be taken into consideration at 2.15 p.m.

Motion carried.

TERRORISM (COMMONWEALTH POWERS) BILL

Second Reading.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

After the well known events of September 11 2002 and its aftermath, the Commonwealth Government convened a meeting of the Council of Australian Governments (COAG), sometimes otherwise known as the 'Leaders' Summit' on the subject of terrorism and trans-national crime. This meeting took place on 5 April 2002 but was preceded by a great deal of discussion and negotiation between the Commonwealth, the States and the Territories. The communiqué that came out of the summit contained 20 resolutions.

The resolutions provided for:

- better co-ordination and co-operation between agencies at the Commonwealth and State level in case of a terrorist attack;
- the development of a new counter terrorist plan;
- better sharing of intelligence; and
- the formation of a National Counter Terrorism Committee.

One of the resolutions concerned terrorism offences. Leaders agreed:

> '... to take whatever action is necessary to ensure that terrorists can be prosecuted under the criminal law, including a reference of power of specific, jointly agreed legislation, including roll back provisions to ensure that the new Commonwealth law does not over-ride State law where that is not intended and to come into effect by 31 October, 2002. The Commonwealth will have power to amend the new Commonwealth legislation in accordance with provisions similar to those which apply under Corporations arrangements. Any amendment based on the referred power will require consultation with and agreement of States and Territories, and this requirement is to be contained in the legislation'.

The Commonwealth introduced a package of terrorism Bills into Parliament in early 2002. The significant elements of this package were the *Security Legislation Amendment (Terrorism) Bill 2002*, the *Australian Security Intelligence Organisation Legislation Amendment (Terrorism) Bill 2002*, the *Criminal Code Amendment (Suppression of Terrorist Bombings) Amendment Bill 2002* and the *Suppression of the Financing of Terrorism Bill 2002*. The most important of these for present purposes is the *Security Legislation Amendment (Terrorism) Bill 2002*. This Bill has passed the Commonwealth Parliament and received assent.

The Commonwealth took the view, on high level legal advice, that it might not have full constitutional power to cover the field of terrorism as it wished to define that subject. The Commonwealth does not have a specific constitutional power to deal with the general area of 'terrorism' nor does it have any general power to make criminal laws. It follows that the scope of any Commonwealth power to enact broad terrorism offences is supported by a patchwork of other specific Commonwealth heads of power.

The patchwork is reflected in s 100.2 of the Commonwealth *Security Legislation Amendment (Terrorism) Act 2002*.

The result is complex and the support that it offers to the general terrorism offences is unclear. Any possible gaps and uncertainties may well be exploited in litigation challenging the validity of the Commonwealth legislation. The Commonwealth took the view that it was expedient to fill the gaps and eliminate, so far as is possible, constitutional uncertainties by a State referral of power to the Commonwealth of the necessary powers under s 51(xxxvii) of *The Constitution*. The States agree with that position and have agreed to refer the necessary power to the Commonwealth. This Bill gives effect to that agreement.

Most of this Bill consists of the text to be referred. It reflects the Commonwealth Act word for word. It is proposed that each State will pass identical legislation.

Content

The terrorism offences set out in the Bill and the Commonwealth Act are broad. That means that the State is referring a broad criminal law power, normally the province of the State, to the Commonwealth. For example, the definition of 'terrorist act' in the legislation is as follows:

terrorist act means an action or threat of action where:

(a) the action falls within subsection (2) and does not fall within subsection (3); and

(b) the action is done or the threat is made with the intention of advancing a political, religious or ideological cause; and

(c) the action is done or the threat is made with the intention of:

  (i) coercing, or influencing by intimidation, the government of the Commonwealth or a State, Territory or foreign country, or of part of a State, Territory or foreign country; or

  (ii) intimidating the public or a section of the public.

(2) Action falls within this subsection if it:

(a) causes serious harm that is physical harm to a person; or

(b) causes serious damage to property; or

(c) causes a person's death; or

(d) endangers a person's life, other than the life of the person taking the action; or

(e) creates a serious risk to the health or safety of the public or a section of the public; or

(f) seriously interferes with, seriously disrupts, or destroys, an electronic system including, but not limited to:

  (i) an information system; or

  (ii) a telecommunications system; or

  (iii) a financial system; or

  (iv) a system used for the delivery of essential government services; or

  (v) a system used for, or by, an essential public utility; or

  (vi) a system used for, or by, a transport system.

(3) Action falls within this subsection if it:

(a) is advocacy, protest, dissent or industrial action; and

(b) is not intended:

  (i) to cause serious harm that is physical harm to a person; or

  (ii) to cause a person's death; or

  (iii) to endanger the life of a person, other than the person taking the action; or

  (iv) to create a serious risk to the health or safety of the public or a section of the public.

The wider definition of 'terrorist act' originally proposed by the Commonwealth Government was substantially amended in the Commonwealth Parliamentary process. Even with the amendments, questions have been raised about the fault elements of the proposed offences. As a result, advice was received from the Commonwealth about the meaning of the offences.

The advice received from the Commonwealth about the fault elements of the offences contained in the Commonwealth legislation (and, therefore, the extent of the reference of power to the Commonwealth) is as follows:

Points on application of fault elements to the terrorism offences

Where a terrorism offence does not specify a fault element for the circumstance that an act is a terrorist act, recklessness applies to this circumstance by virtue of section 5.6 of the *Criminal Code*.

For example, the offence of preparing for, or planing, a terrorist act in section 101.6 should be read as follows:

A person commits an offence if the person

- intentionally does any act and;
- is reckless as to whether that act is in preparation for, or planning, a terrorist act.

In other words, to commit the offence of preparing for, or planning, a terrorist act, a person would have to be *reckless* as to whether his or her act is in preparation for an act that would cause serious harm to a person, serious damage to property etc and that would be done with the intention of advancing a political, religious or ideological cause and with the intention of coercing a government or intimidating the public.

Where an offence does specify a fault element for the circumstance that an act is a terrorist act, the fault element will apply.

For example, the offence of providing or receiving training connected with a terrorist act in subsection 101.2(1) should be read as follows;

A person commits an offence if the person

- intentionally provides or receives training and;
- knows that the training is connected with preparation for, the engagement of a person in, or assistance in a terrorist act.

In other words, to commit the offence a person would have to *know* that the training he or she provided or received was in preparation for etc an action that would cause serious harm to a person or serious damage to property etc and that would be done with the intention of advancing a political, religious or ideological cause and with the intention of coercing a government or intimidating the public.

Duration/Termination of Reference

The agreement reflected in the Bill is that the reference should be indefinite but subject to termination by any referring State by proclamation by its Governor. There is some High Court authority (*R v Public Vehicles Licensing Appeal Tribunal (Tas): ex parte Australian National Airways Pty Ltd* (1964) 113 CLR 207) upholding such a clause and a clause in those terms is included in the referral Bill.

Inconsistency ('Roll-Back')

In the Australian Federal system there is a distribution of legislative powers between the Commonwealth and the States. The legislative powers of the Commonwealth Parliament are conferred by and confined by *the Constitution.* There are many topics on which both the Commonwealth and a State may legislate, that is, the Parliaments have concurrent legislative power. Thus, in a given situation, there may be more than one law that governs the position, one State and one Commonwealth. Section 109 of *the Constitution* governs the position when such laws are inconsistent with each other. It provides that, in that event, a valid Commonwealth law prevails and the State law is invalid to the extent of the inconsistency. The inconsistency may be direct, as when the State law conflicts, or indirect. An indirect inconsistency arises when a valid Commonwealth law is intended to cover the subject matter and there is a State law on the same topic. In that event, the State law is invalid, even though they may be the same and it would be possible for a person to obey both. The extent and meaning of s 109 has been the subject of a great deal of litigation and High Court decision-making.

'Roll-back' is legal jargon for a Commonwealth statutory provision ensuring the Commonwealth laws that are referred do not over-ride State laws—that is, that both have concurrent operation. It is particularly important here, where, given the wide scope of the Commonwealth terrorism laws, there is the possibility for the Commonwealth to take over of a large chunk of traditional State criminal jurisdiction. The Commonwealth has agreed to provide for 'roll-back' in the terrorism reference. The provisions proposed by the Commonwealth are ss 100.6-100.7 of its Act. On this issue the Commonwealth is prepared to be as accommodating as it can be to maximise the scope for the joint and concurrent operation of State and Commonwealth criminal laws, and thus to avoid problems of indirect inconsistency.

Amendment

The referral to the Commonwealth is the referral of the 'text' of the Commonwealth legislation. The question then arises—what will be the position if the Commonwealth wants to amend its terrorism legislation? The matter was discussed at the last meeting of the Standing Committee of Attorneys-General, and it was agreed that amendment may only take place with the agreement of a majority of the States and Territories, including at least 4 referring States.

Section 100.8 of the Commonwealth 'text' reflects the agreed majority agreement position. However, there is a question as to whether the Commonwealth can fetter its legislative powers in this way. Therefore, there is still debate between the Commonwealth and the States about whether the States should enact a further provision in the referral legislation. This Bill now includes a provision requiring agreement on amendments.

One other matter should be noted. The Commonwealth wants to be able to make general amendments to Chapter 2 of the *Criminal Code,* that is to the provisions that set out the principles of criminal responsibility, without the agreement of the States. The principles are of general application to offences against the *Criminal Code.* They are not directed specifically or substantially to the terrorist offences. It is appropriate that the Commonwealth be able to amend Chapter 2, but the State would have concerns about the Commonwealth unilaterally amending these provisions in so far as they apply to the referred terrorism offences. This is because such amendments could significantly change fundamental elements of the terrorism offences

Conclusion

It is highly desirable that the referral legislation be uniform and the Government does not believe we can afford to delay this legislation. It is vital that we have legislation in place that will allow Australia to deal effectively with the threat of terrorism.

I commend the Bill to the House and urge Honourable Members to support it.

Explanation of clauses

The provisions of the Bill are as follows:

Clause 1: Short title and purpose of Act

This clause provides for the name of the proposed Act (also called the short title), and sets out its purpose.

Clause 2: Commencement

The measure will be brought into operation by proclamation.

Clause 3: Definitions

Clause 3 defines terms used in the proposed Act. In particular:

(a) terrorism legislation is defined to mean the provisions of Part 5.3 of the Commonwealth Criminal Code enacted in the terms, or substantially in the terms, of the text set out in the Schedule and as in force from time to time;

(b) criminal responsibility legislation is defined to mean the provisions of Chapter 2 of the Commonwealth Criminal Code (which deals with general principles of criminal responsibility), as in force from time to time.

Clause 4: Reference of matters

Clause 4 refers the following matters to the Parliament of the Commonwealth:

(a) the matters to which the provisions of the text set out in the Schedule relate, but only to the extent of the making of laws with respect to those matters by including those provisions in the Commonwealth Criminal Code in the terms, or substantially in the terms, of that text; and

(b) the matter of terrorist acts or of actions relating to terrorist acts, but only to the extent of the making of laws with respect to that matter by making express amendment of the terrorism legislation or the criminal responsibility legislation.

Clause 5: Termination of references

The Governor will be able to terminate the reference by proclamation. At least three months' notice must be given. The Governor will be able to revoke a proclamation in an appropriate case.

Schedule

The Schedule contains the text of the proposed Commonwealth legislation that is to be enacted in pursuance of the reference of power made by the States.

The main offences in proposed new Part 5.3 of the Commonwealth Criminal Code are as follows:

(a) engaging in a terrorist act (proposed section 101.1) or doing any act in preparation for or planning a terrorist act (proposed section 101.6);

(b) providing or receiving training connected with a terrorist act (proposed section 101.2);

(c) possessing things connected with a terrorist act (proposed section 101.4);

(d) collecting or making documents likely to facilitate a terrorist act (proposed section 101.5);

(e) directing the activities of a terrorist organisation (proposed section 102.2);

(f) membership of a terrorist organisation (proposed section 102.3);

(g) recruiting for a terrorist organisation (proposed section 102.4);

(h) training, or receiving training from, a terrorist organisation (proposed section 102.5);

(i) getting funds to or from a terrorist organisation (proposed section 102.6);

(j) providing support to a terrorist organisation (proposed section 102.7);

(k) financing a terrorist act (proposed section 103.1).

The proposed offences carry penalties ranging from 10 years to life imprisonment.

Proposed section 100.1 defines a terrorist act as an action or threat of action done or made with the intention of advancing a political, religious or ideological cause, and coercing or influencing by intimidation a government or intimidating the public. Action falls within the definition if it causes serious physical harm or death, serious damage to property, endangers another person's life, creates a serious risk to the health or safety of the public or a section of the public or seriously interferes with, disrupts or destroys an electronic system. Action constituting advocacy, protest, dissent or industrial action that is not intended to cause serious physical harm or death, endanger another person's life or create a serious risk to the health or safety of the public or a section of the public is excluded from the definition.

The Hon. R.I. LUCAS secured the adjournment of the debate.

CONSTITUTION (MINISTERIAL OFFICES) AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 1534.)

The Hon. M.J. ELLIOTT: I support the second reading. As on a previous occasion, I have some concerns about the cost implications of this legislation, but as is so often the case sometimes you have to balance conflicting things which work. In this case I believe that what swings the Democrats' vote in favour of the bill is the fact that it does provide a level of stability in this state which we might not have had otherwise. Up until now, the government largely relied upon the Speaker, and I think that it would be fair to say that a few people were unsure about how reliant it could continue to be on the Speaker. With the involvement of Mr McEwen in the cabinet, one would expect that that would supply some extra security, although I note that Mr McEwen was already on the record essentially saying that it was not his intention to bring down the government during its term, unless he felt that it—I cannot remember his exact words—was grossly negligent or something such as that. To some extent, some security had already been offered in that way.

There has been some comment about the agreement struck between the government and Mr McEwen in terms of the way in which cabinet would work. I would have to say that I believe that the agreement is a very healthy development in South Australia. It might have been unusual up until now for such an agreement to be struck probably anywhere in Australia, but agreements of a similar sort are not unusual in most other western democracies, with the exception of Britain, the United States and Canada, which still adhere to single member electorates, which, for the most part, tend to guarantee that one party or another has a majority in its own right; or two parties which are incredibly close to each other, such as the Liberals and the Nationals, so there has not been the need for that sort of agreement.

Even in Britain we find similar things happening in Scottish and Welsh parliaments where they enter agreements of this sort under which two parties—even though they do not necessarily have a great deal of commonality other than perhaps they do not want the other guys, whoever they are—will agree to work together. It is true that, from time to time in Europe, we see such agreements come unstuck, but they do not have another election. What happens is that there is a reworking of the coalition. In fact, democracy remains alive between elections and not just every election. I think that that has something going for it in terms of no longer having an inner cabinet—a small group of people who make all the decisions for cabinet, backbenchers and the party room. That is the way in which things are run for four years. The fact is that democracy continues to function, and a higher level of accountability is generally more likely within cabinet as a result of these types of agreements. I think that we will see more of them.

I think that 11 September stalled it briefly, but increasingly the general trend has been for the non-Liberal, Labor vote to grow, and increasingly we will not have single parties with a majority in their own right. In the first instance, it is more likely at state level than federal, but increasingly the sorts of deals that have been done in relation to Mr McEwen will occur and will become common place. I do not see any problems with that sort of deal. I do not think that there is any suggestion that Mr McEwen can spill the beans on whatever is happening in cabinet, but he is in a position to disagree. Having people who can continue to express their own views and not be bound to vote for things with which they simply do not agree is extraordinarily healthy in a democracy.

As I said, this is an imbalance thing. Certainly there will be a cost. There are arguments that this deal might cost us about $1.5 million but, when one looks at a budget which runs to billions of dollars, you can certainly play the game and say, 'This million dollars could do something here, there or somewhere else', but it is a small fraction of a per cent of an overall budget and its overall impact on the budget's bottom line. It is a lot of money to us, but its overall impact on the budget lines is not great and, for the sake of stability for the next 3½ years, it is a price the Democrats think is worth paying. It is somewhat different from the Liberal arrangement which was not giving stability to government: it was handing out a few more prizes to the boys and girls, and, as such, I would make some differentiation between the two arrangements. The Democrats support the second reading of the bill.

The Hon. A.J. REDFORD: This bill is called the Constitution (Ministerial Offices) Amendment Bill 2002. In fact, it should be called the Constitution (Have I Got A Deal For You, Rory) Amendment Bill 2002. It seeks to amend section 66 of the Constitution Act. Currently section 65 of the Constitution Act provides:

The number of ministers of the Crown shall not exceed fifteen.

Section 66(2) of the same act provides:

Every minister of the Crown is, ex officio, a member of the Executive Council unless an appointment is made taking the number of ministers to more than thirteen, in which case, while the number of ministers exceeds thirteen, the Executive Council will consist of not more than ten ministers of the Crown appointed to the Executive Council by the Governor.

The amendment deletes all the words in section 66(2) so that it will read:

Every minister of the Crown, is ex officio, a member of the Executive Council.

In other words, if this bill is passed, the Constitution will enable the Governor, that is, the Premier, to appoint 15 members of cabinet and all those members of cabinet will serve on Executive Council. That leads one to explore what is the difference between being a member of the Executive Council and being a member of cabinet.

The book entitled *The Constitution of South Australia*, by former solicitor-general and new justice Bradley Selway, talks about the role of cabinet and Executive Council in our system of government. He refers his readers to the role of Executive Council and, in particular, he refers to section 23 of the Acts Interpretation Act. That section provides:

> Where in any act passed after the first day of January 1873 the Governor is authorised or required to do any act, matter or thing, it will be taken to mean that the act, matter or thing may or must be done by the Governor with the advice and the consent of Executive Council.

Thus, in exercising a statutory power, Executive Council holds the power in lieu of the Governor. In other words, the real power, where the Governor is mentioned in a piece of legislation, resides with Executive Council. The author, at chapter 6, describes Executive Council as follows:

> The body which gives formal and legal effect to the decisions of cabinet in so far as those decisions affect or require action by the Governor.

The author points out that in South Australia the invariable practice is that Executive Council only acts and advises in accordance with previous discussions of cabinet. In other words, Executive Council, if you want to put it in colloquial terms, is a mere rubber stamp for cabinet. Based on this, one might wonder why we need a separate Executive Council. What does it do that cabinet does not do? What power does it have that cabinet does not? In my view, very little turns on whether one is a member of cabinet or a member of cabinet and Executive Council in the exercise of political power or authority.

Selway talks about the pre-eminence of cabinet and says that that pre-eminence is based on two considerations. First, ministers are bound by decisions of cabinet and are required to support those decisions. Secondly, deliberations and discussions within cabinet are absolutely confidential. I know that for every rule there are always exceptions and what we are looking at today—and I will go through it in a little more detail later—is an agreement between the Premier, on behalf of the government, and the member for Mount Gambier in relation to how these two fundamental principles are to be modified. That is not without precedent, and I know that other members have referred to other occasions where there have been exceptions in other jurisdictions in Australia.

I have had the opportunity in the limited time that this bill has been before parliament to look at some other authorities and, in particular, I refer members' attention to the book entitled *Cabinet Government*, by W. Ivor Jennings, published by the Cambridge University Press as long ago as 1936. That book sets out a number of principles, including the fact that cabinet takes decisions by majority when it cannot reach a unanimous decision. It talks about some of the processes in which a leader, premier or a prime minister might lead cabinet to unanimity.

An interesting chapter in that book talks about coalitions, and that is what we are looking at here. The first statement that is made is that this consideration of unanimity is somewhat undermined in a coalition government. The author of the book points to a very clear fact that occurs in relation to agreements of this nature, and that is that there can be, and usually is, little personal or party loyalty to a position that cabinet might take. Cabinet, whilst it has 'a plethora of eminence', has to deal with not only rival policies but also rival ambitions in so far as a coalition cabinet is concerned.

The question of cabinet solidarity and cabinet secrecy is based on two precepts. First, the oath that is administered imposes an obligation not to disclose information, and during the committee stage of this debate I will be asking a series of questions about what will be the oath that will be taken in this case and whether that oath will be subject to the agreement that has been entered into by the Premier on the one part and the member for Mount Gambier on the other. In any event, the first basis upon which this solidarity and confidentiality are supported is an ancient one, and that is the theoretical basis that a cabinet decision is mere advice to the governor, queen or king, whose consent is necessary for that decision to be promulgated.

We all know that, as our system of government has evolved, the Governor in this state, with some exceptions that took place in the 1970s, is obliged to follow those decisions, subject always to the reserve powers that the Governor might have through processes that might arise such as a constitutional crisis. There is also a second basis, and that is the necessity of securing free discussion by which a compromise can be reached without the risk of publicity for every statement made and every point given way in the course of a cabinet negotiation. It will be extremely interesting to see what the impact will be. The focus in the debate in another place and the focus in the debate to this point has been on what has been and what will be the effect on the activities of the member for Mount Gambier and how he may or may not deal with certain compromises he might believe he has to make in order to retain his position in cabinet.

But there is an equal and opposite force, that is, whether or not the other members of this cabinet will feel free to engage in a frank discussion and will feel free to engage in compromise with the presence of the member for Mount Gambier. The whole of that process will be very interesting to watch, and I am sure that those of us who are political junkies, including those in the media, will watch that very closely. The second point about which I wish to talk is this concept of collective responsibility. It is a basic principle that a minister who is not prepared to defend a cabinet decision must resign. There are and have been numerous exceptions to that.

If one goes back to 1932 in the United Kingdom there was a national government supported by the Conservative and Liberal parties and a few members of the Labour Party, and cabinet was comprised of a number of members from each of them. A number of agreements were entered into, one of which was an electoral arrangement whereby, at the following general election, with very few exceptions, supporters of the national government were not opposed by other supporters of that government. If I can explain that and how a similar agreement might work in this state with this agreement, it would mean that the Labor Party would not field a candidate in the seat of Mount Gambier.

That 1932 cabinet had a very chequered history. It had some extremely difficult issues, and many of those issues, ultimately, led to significant division within the cabinet. The issue of tariffs (an issue that seems often to rear its ugly head) led to a significant difference in opinion between various factions within the cabinet. The Conservative Party was asserting that tariffs were a solution to many of the difficulties confronting the United Kingdom at the time, but many members of the other parties would not agree. It was decided that (and this was particularly pertinent during the election campaign), notwithstanding a membership of cabinet, they were free to assert their own particular policies during the course of an election campaign.

Therein lies my second question, namely, what will be the position of Mr McEwen, the member for Mount Gambier, during the course of an election campaign? Will he be entitled to assert policies and viewpoints that differ from existing policies that might prevail on the part of the government and the cabinet leading up to the next election, or will he be required to support a cabinet decision? I believe that it is important that, before the passage of this bill, we clearly understand what may or may not be a breach of this agreement. It is important that the government outline what freedoms the member for Mount Gambier may or may not have during the course of the next election campaign that will not affect his position within cabinet.

The difficulty in that circumstance will be that cabinet—and we all know that, with a fixed election date, we will have a long lead-up to the next election—may well fail to have a free and frank discussion if the member for Mount Gambier is present around that table. One might think that decisions may well be made without the benefit of free and frank discussion, without the benefit of free and frank debate, particularly in that six-month period leading up to the next election. I think that, in those circumstances, while there are general principles in the agreement between the member for Mount Gambier and the government, there is nothing specific about what may or may not happen during the course of that election campaign.

I return to the circumstance that existed in 1932 in the United Kingdom. Four members of the cabinet disagreed with the position that the cabinet was taking in regard to the general tariff. They all met with the Prime Minister and, seeing some political difficulty and a series of critical headlines, he pleaded that they should not resign as it would make his position, 'embarrassing and humiliating'. The Prime Minister suggested that the resignation might be averted by conceding to them the liberty to express their dissent publicly. So, there are precedents for cabinet ministers being able to express their dissent publicly.

The difficulty, though, is that it does place those members in a very strong position within the confines of cabinet. Those members, who have never been the subject of a process of advancing a particular cause and working through committees and other processes, and who are comfortable with changing particular viewpoints and working on skills (and they are supremely important skills) to shift the position of a party, may well choose to operate in a different fashion. In these circumstances, it is my view that the member for Mount Gambier will be in a very strong position in terms of his relationship to the cabinet and, indeed, the other 13 members who comprise that cabinet.

The Hon. T.G. Cameron: I think that he is already aware of that judging by his swagger.

The Hon. A.J. REDFORD: The honourable member makes a very pertinent interjection. Whilst it perhaps may not be labelled as such, one aspect that has been overlooked in this agreement is the extraordinary and enormous political power that the member for Mount Gambier will wield; and, quite frankly, I think that his position has been extremely understated. I know that the Hon. Robert Lucas has referred to some dissent on the backbench, and I do not wish to poke my nose into that. I know that a number of members within the Labor Party are doing a very good job of promoting that internal dissent without my throwing any fuel on the fire.

What I believe has been overlooked by the members of the cabinet, with one or two exceptions, I might add, is that, in the processes, the member for Mount Gambier will not be one amongst equals: he will be slightly above those equals because of that power.

The Hon. R.I. Lucas interjecting:

The Hon. A.J. REDFORD: The honourable member interjects and says that, but I will come to that a little later because I am a little concerned about that. In effect, my point is that this just does not give the member for Mount Gambier a position around the cabinet table; it gives him a pre-eminent position around the cabinet table. It will be very interesting to see what the member for Mount Gambier does in relation to the shifting of government policy in this state. It seems to me that the member for Mount Gambier will be in a far more powerful position in cabinet than anyone else, with the possible exception of the Premier.

In 1932 the then prime minister came up with this concept of being able to express dissent publicly. The suggestion was dismissed as impractical and described as 'Gilbertian' which, I assume, derives from Gilbert and Sullivan. In any event, when the suggestion was put to the cabinet, those dissenting ministers (after a lengthy discussion) agreed that they would be free to vote on and speak against any tariff proposals—and away they went. The official announcement was made in these terms—and I will read it in full:

> The cabinet had had before it the report of its Committee on the Balance of Trade, and after prolonged discussion it had been found impossible to reach a unanimous conclusion on the committee's recommendations.
>
> The cabinet however is deeply impressed with the paramount importance of maintaining national unity in the presence of the grave problems now confronting this country and the whole world.
>
> It has accordingly determined that some modification of usual ministerial practice is required, and has decided that ministers who find themselves unable to support the conclusions arrived at by the majority of their colleagues on the subject of import duties and cognate matters are to be at liberty to express their views by speech and vote.
>
> The cabinet being essentially united in all other matters of policy believe that by this special provision it is best interpreting the will of the nation and the needs of the time.

It is interesting to note that, in a time of what is described as a national crisis, this response (with dissent in decision-making at the very top) was the best policy for the nation at the time. One might suspect that politics was perhaps more primary in their thought processes than the so-called national interest. In any event, that government was doomed to fail and the people decided accordingly. One might think that there is a real possibility that that will happen in this case, not that we on this side of the parliament would enjoy that process, but if it does happen we will be ready.

Where a cabinet decision requires some formal act to give effect to that decision, the Executive Council is responsible for the institution of that formal act. Selway in his book points out the following:

> Draft cabinet submissions, cabinet submissions (including the cabinet decision) and details of what occurred within cabinet are absolutely confidential.

He goes on to say:

> The extent to which this confidentiality is recognised by the courts is discussed in chapter 17.4.

In chapter 17.4, Selway says that there is a public interest—and I emphasise 'public interest'—in the confidentiality of cabinet material because of the following:

> 1. The public interest in the preservation of the confidentiality of the material itself. Some cabinet materials, for example, budget papers, are necessarily confidential.
> 2. The constitutional necessity that the deliberations of cabinet should be secret and that all ministers be bound by the ultimate decision of cabinet.

I would be interested to hear the government's response as to why, in this case, the public interest can be altered to enable the member for Mount Gambier to take exception to some of those extreme fundamental principles that have hereto existed in this state. This process of cabinet confidentiality has been protected by the courts. So, generally speaking, this agreement could change the law concerning the importance of cabinet confidentiality. This has been supported in this state in the State of South Australia v. O'Shea (1987 163 CLR at page 378). I will be interested to hear—and I will ask questions about this—what effect this agreement will have on the constitutional principles outlined in that particular case. There are a couple of other cases on this point. In particular, I refer members to Whitlam v. the Australian Consolidated Press (1985 73 FLR at page 414). I would be very interested to know what the position is.

Secondly, in terms of the government's justifying its position in so far as this bill is concerned, I would be delighted to know the real practical difference between being a member of Executive Council and a member of cabinet, because it seems to me that that is what this legislation is directed towards. It also seems to me that, if there is little difference in a practical and a political sense between being a member of cabinet and a member of Executive Council, the justification for this piece of legislation (from a legal perspective at least) is substantially diminished if not negated.

Some may wonder why I have gone through some of the features of the role and responsibility of cabinet and Executive Council. The reason is that, in my view—and as Selway quite rightly highlights in his book—there are a number of features that can be drawn from our current constitutional arrangements. First, there is little practical difference between being a cabinet minister and a member of Executive Council. As I said, I would be interested to hear from the minister what he says is the real difference. Secondly, ministers are bound by cabinet decisions and are required to support cabinet decisions. Thirdly, deliberations and discussions within cabinet are absolutely confidential, and that includes draft and final submissions. Finally, it is in the public interest that confidentiality of materials and deliberations and discussions is maintained.

The Ministerial Code of Conduct is a very important document in the life of this state. In this respect, I need go no further than the statement made by the Premier to the other place on 16 May in relation to this issue. On that occasion, the Premier said:

> Today, I am pleased to announce the introduction of a tough, comprehensive new code of conduct for ministers.

He went on to say:

> The new code of conduct for ministers is one of the toughest codes of conduct applying to ministers in this country.

He says further—and I emphasise this:

> It represents the fulfilment in part of another promise made before the last state election to introduce the toughest and most comprehensive honesty and accountability measures and standards of conduct. Setting the highest standards and meeting them will contribute to a renewed public confidence in the standing of government and, indeed, of parliament, and that is what our community in South Australia expects and deserves.

The Premier could not have been putting a more important emphasis on this Ministerial Code of Conduct than he did when he gave this statement to parliament on 16 May.

Indeed, it is not the first ministerial code of conduct that has been put in place in this country. One might recall that when Prime Minister John Howard was first elected he, also, announced a very significant ministerial code of conduct, and we know that a number of ministers—including minister Prosser—who ran foul of it in relation to their personal interests were required to resign. Indeed, the Prime Minister has enforced that code of conduct rigorously, and every time that code of conduct has been tested the Prime Minister has enforced it, even at great political cost and contrary to some close personal friendships that he had at the time. So, I emphasise that this Ministerial Code of Conduct was a promise made by the Premier to the state and is absolutely fundamental to the trust that the people may or may not have in this government and the principles that it subscribes to. Page 1, paragraph 3, of the Ministerial Code of Conduct states:

> Ministers are expected to behave according to the highest standards of constitutional and personal conduct in the performance of their duties.

I would be very interested to know what the minister and the Premier say are standards of constitutional conduct. What is constitutional conduct? I think that is important, and I will elaborate on it later. Paragraph 2.6 talks about openness, accountability and transparency, and states:

> A Minister has an obligation to be open and transparent.

It goes on and refers to an exception to that obligation which is as follows:

> However, Ministers are not required to disclose information that they are prevented by law from disclosing or which is not in the interests of the public.

I will be very interested to see how that is impacted upon by the arrangement between this government and the member for Mount Gambier, and I will ask a series of questions a bit later on that topic. Paragraph 2.8 of the code of conduct is a very interesting clause, and it states:

> The ethical and effective working of Executive Government in South Australia depends on Ministers having the trust and confidence of all ministerial colleagues in their official dealings and in the manner in which they discharge their official responsibilities.

It is extremely interesting to note, when one looks at this agreement, notwithstanding the lofty statement of the importance and primacy of having trust and confidence in ministerial colleagues, that it provides a means by which that trust and confidence in each other can be diminished. The Code of Conduct goes on to state:

> The collective decisions of Cabinet are binding on all Ministers individually. If a Minister is unable to support a Cabinet decision publicly, the Minister should resign from Cabinet. This convention is based on the proceedings of Cabinet ordinarily being secret and Ministers providing to their colleagues adequate notice of matters to be raised in Cabinet.

So, it is stated very strongly in this Ministerial Code of Conduct that, first, collective decisions are binding on all ministers individually and, second, if they are unable to support a cabinet decision publicly, the minister should resign. By itself, that is an unarguable proposition. Indeed, with regard to cabinet confidentiality, paragraph 2.9 states:

> The principle of collective responsibility for the decisions that are taken in Cabinet is fundamental to effective Cabinet government. From this principle flows the convention that what is discussed in Cabinet and in particular, the views of individual members on issues before the Cabinet, are to remain entirely within the confidence of the members of Cabinet.

When this Ministerial Code of Conduct was tabled in May 2002, the Premier said, in his very lofty statement, that that is the cornerstone of the principle upon which this government is based: a fundamental principle, that is, that

collective responsibility is fundamental to effective cabinet government. I could not have agreed more with the Premier back in May: it is absolutely fundamental. Indeed, the Premier pointed out to this parliament the importance of matters and issues before the cabinet remaining entirely within the confidence of the members of cabinet.

Because the Premier well knows that you cannot have a free and frank discussion, and you cannot have government departments providing information and submissions to a cabinet freely and frankly to enable the cabinet to make proper and appropriate decisions on the part of the people of South Australia, if there is fear that there will be some sort of criticism or belittling of those submissions, etc., somewhere down the track. At that particular time, one would have said that the Premier and this government had some understanding of how a system of responsible government should operate within the Westminster system.

The code of conduct also talks about conflicts of interest, disclosure of interests and various other things, and I will return to those in due course. These are the sorts of high standards that this code of conduct talks about. It states:

> Ministers should not appoint close business associates or relatives to positions in their own offices. A Minister's spouse, domestic partner and/or children should not be appointed to any position in an agency within the Minister's own portfolio unless the appointment is first approved by the Premier or Cabinet.

The Hon. T.G. Cameron: I can point to about 20 breaches of a couple of those instances.

The Hon. A.J. REDFORD: The honourable member interjects, and I look forward to hearing his list in respect of that, but I just mention that because the Premier, back in May this year, was saying that this Ministerial Code of Conduct is tough and is absolutely fundamental to the restoration—in his words—of public confidence in our system of government and in governments in general, and absolutely fundamental to public confidence in him and his government, in his veracity and his government's veracity. I note that the Hon. Terry Roberts, in a rare moment of agreement with both me and the Premier over the last couple of weeks, has interjected in a positive fashion.

I think that I have set out in some detail what the Premier has said. I now turn to the agreement between the Premier and Rory McEwen MP, as he is described in the agreement, or the member for Mount Gambier. I must say that I had a wry smile, because the Premier has always said that the parliament is paramount, but, when he entered into this agreement some two weeks ago—well before the announcement to this parliament—he described the member for Mount Gambier as 'minister'. I suggest that in future the Premier should not pre-empt a decision of parliament because, ultimately, we can reject the legislation, if this legislation is fundamental to this agreement. I do not believe that it is, and I will explain why in some detail. The first important clause in this agreement is clause 2.9, which provides:

> The minister will be bound by the Ministerial Code of Conduct, except as provided for in this agreement.

So, here is the first test of this Ministerial Code of Conduct—the first time that this government has had to look at this Ministerial Code of Conduct and say, 'How important is it? Is it as fundamental as I have been telling the public? Is it as fundamental as I have been telling the parliament?' The answer is that, at its very first test, it has failed.

The Premier—having said all these lofty things in the other place; having, last year, talked about the primacy of this document; and having said on dozens of occasions that it is fundamental to his government's credibility—at the code of conduct's very first test, has thrown it in the bin. He has thrown it away, because he has inserted a clause that provides:

> The minister will be bound by the Ministerial Code of Conduct, except as provided for in this agreement.

When politics and the Ministerial Code of Conduct conflict (as has happened here), politics will prevail. This Premier stands condemned by his own hypocrisy. Every time he stands up and says, 'I have a lofty principle,' I know (and I am sure that, over the next couple of years, members of the public will become aware of this) that there will be some unwritten, silent words, namely, 'that is, subject to my political expediency'. That is what this is all about.

I will be asking questions about this second problem and, if the committee stage takes some time, so be it. I am sure that the member for Mount Gambier wants this issue cleared up, and I am sure that he wants to know exactly where he stands in relation to his responsibilities pursuant to this agreement and this shattered Ministerial Code of Conduct. He needs to know precisely what his position is and, if that means that we have to wait for some of the answers to come back, I am sure that he will be grateful that we have clarified precisely what needs to be done, and what he can and cannot do in terms of this agreement.

If this wonderful document, which is an absolute cornerstone of the Premier's credibility, is adopted and the Premier fails his first test based purely and simply on politics, one might think that you would say, 'Let's go through the Ministerial Code of Conduct and be somewhat precise about what does and does not apply.' However, this agreement is silent. This agreement does not say by which clause the member for Mount Gambier will be bound. If this agreement between the member for Mount Gambier and the Premier is read broadly, the Ministerial Code of Conduct substantially diminishes. I suggest that one can look at this Ministerial Code of Conduct with extraordinary cynicism. When one contrasts the strength and character of leadership of the current Prime Minister John Howard with that of this Premier, he is but a mere and pale shadow.

The Hon. T.G. Cameron: Which one is?

The Hon. A.J. REDFORD: I am surprised that the honourable member interjects. There are a number of questions I would like answered: first, can the Premier or the minister outline what other situations or occasions will lead to an opting-out from this Ministerial Code of Conduct? In that respect, I think that it is important that we in South Australia understand in advance when the Ministerial Code of Conduct will become expendable. On this side of politics, I think that we all know that it will become expendable as soon as it is politically expedient for the Premier. However, I think that the public, particularly those who, at the moment, think that he is trustworthy, need to know from the Premier when this code applies and when it does not.

Secondly, are there any other agreements that have not been publicly disclosed which deviate from this Ministerial Code of Conduct? Are there any clauses, any documents or any pieces of paper which say that the Ministerial Code of Conduct is subject to those agreements or arrangements and so on? Thirdly, can the minister identify precisely what clauses in this Ministerial Code of Conduct are subject to the agreement? I am sure that the member for Mount Gambier would be extremely interested to know what the government thinks is and is not subject to the agreement.

Finally, I suggest that there seem to be a couple of rules in this state under this current administration: first, if you are a public servant or involved in local government, you are bound by a code of conduct, and there are no statutory exceptions—no exceptions. However, there is another standard that applies to ministers in this government, that is, you can contract or opt out of this agreement the minute that it becomes expedient to do so. This agreement is of a lower standard, based on the conduct of this Premier, than that which applies to senior public servants and that which applies to local government officials.

The next issue I raise is paragraph (c) in the preamble, which provides:

> The minister will not become a member of the Labor Party and will remain an Independent member of parliament.

Knowing the member for Mount Gambier as I do, I would have thought that he would have raised this issue fairly early in the negotiations. I suspect that that provision would have been written down on a piece of paper before the waiter had finished taking the order at the restaurant across the road. However, it does raise some questions: first, how will it work? As the next election looms closer and closer, I understand that the member for Mount Gambier will be seeking to distance himself from the name 'Labor Party' as much as he can.

I would be interested to know what role he will have in the development of policy. We know that policy is always an ongoing process. In the Labor Party, theoretically, the policy-making body is its state council and state executive. We all know that that is a sham now because they constantly ignore the decisions made by their ordinary members and that, generally speaking, policy can either come from a Labor cabinet or a Labor caucus. I would be very interested to know whether or not the member for Mount Gambier will have any role in the caucus. For arguments sake, will the member for Mount Gambier, in presenting a bill for approval to the caucus, be present during the course of the discussions? What will be the process that the member for Mount Gambier might avail himself of in convincing caucus of the rightness of his or his department's viewpoint on any given matter? If he is not to be present in caucus, is there a minister or a member of caucus who has been delegated the task of presenting bills and other matters to the ALP caucus prior to their introduction in the parliament?

The Hon. P. Holloway: It will be similar to the arrangements we had with Terry Groom and Martyn Evans in 1993.

The Hon. A.J. REDFORD: What were they?

The Hon. P. Holloway: They had somebody representing the secretary of their committee put their bills up.

The Hon. A.J. REDFORD: Who is going to do that?

The Hon. P. Holloway: That is yet to be determined.

The Hon. A.J. REDFORD: Unless the member wants to change that viewpoint or clarify it, I will take that response to mean that the member for Mount Gambier will not be present during any caucus meetings, and I suspect that there will be some communication issues which may or may not arise from time to time in how the member for Mount Gambier might interpret a caucus decision, and I look forward to the result of that.

The next issue I want to turn to in this agreement is part (e) of the agreement, on page one. The first thing it says—I love this, and it does support my contention that this agreement makes the member for Mount Gambier a first among equals—is:

> The parties agree that the minister will have a special position in cabinet.

I must say that the political reality means that that should read 'pre-eminent', but, to continue:

> By reason of his independence there is a class of issues in respect of which it will not always be possible for the minister to be bound by cabinet decisions.

It goes on to say that those issues are defined in clause 3, and I will ask some questions about that in a minute. It then goes on to say:

> The agreement reached between the parties is intended to reduce to a minimum any matters where the minister will not be able to agree to a decision of cabinet.

My question arising from that clause is, what is meant by the term 'to a minimum'? Who is to judge what is 'a minimum'? Will there be a threshold as far as that is concerned? The next issue arises in so far as clause 2 is concerned and, in particular, I draw members' attention to clause 2.4.5. The agreement says:

> In performing his portfolio responsibilities the minister must give effect to (in order of priority) 2.4.5, save as specified in paragraph 2.7 of this agreement, any relevant policies announced by the Labor Party in the 2002 state South Australian election (Labor policies).

There were a lot of policies announced last year, and I would be interested to know what is meant by the term 'in the 2002 state South Australian election'. To what policies does clause 2.4.5 refer in relation to this issue? Secondly, clause 2.7 says:

> It is understood the minister may not have to comply with Labor policies in relation to 2.7.1, significant matters affecting the business community and 2.7.2, issues believed to be matters of conscience.

A number of questions arise from that. First, we all know that the Labor policies have been stated. A lot of them have been broken, but they have been stated. Can the minister identify what matters affecting the business community exist, in so far as Labor policies are concerned, particularly those referred to in clause 2.4.5, i.e., those announced by the Labor Party in the 2002 South Australian election? It seems to me that there are means by which those issues can be specifically identified at this point in time. I think it is incumbent upon the government, so that we all understand how this agreement, which has shredded the ministerial code of conduct, will operate in the future.

The second question I have relates to these issues of matters of conscience. I would be very interested to know whether the definition of 'matters of conscience' is the same as that which appears in Labor Party rules, or whether there is some other definition. Members on this side and, I am sure, members of the South Australian public would like to know what is meant in terms of this agreement by the term 'matter of conscience'. For argument's sake, is the member for Mount Gambier entitled to say what is or is not a matter of conscience within the terms of this agreement, or is he bound by a decision made by the Labor caucus on that matter? A good example is appearing before this parliament at the moment, that is, the same sex superannuation legislation, and that is not a matter of conscience within the Labor Party. I would be very interested to know whether, in fact, the member for Mount Gambier is bound by that.

The second issue in relation to clause 2.7 relates to the member for Mount Gambier's portfolio responsibilities. In the announcement—and I am not too sure who announced it, whether it was the Premier or the member for Mount Gambier; they were both rushing to get to the media when all this occurred—it was stated that he was to be Minister for Local Government, Minister for Trade and Regional Devel-

opment and Minister Assisting the Minister for Federal State Relations.

The Hon. Caroline Schaefer: He was to be minister assisting the minister assisting the Minister for the Arts too, wasn't he?

The Hon. A.J. REDFORD: No, that was another one. I do digress, but I am sure my federal colleagues are looking forward with excitement to the prospect of the member for Mount Gambier visiting them regularly, and, I must say, in some respects, they deserve him.

The Hon. Carmel Zollo interjecting:

The Hon. A.J. REDFORD: The Hon. Carmel Zollo interjects. That might be good Labor policy where there is a Labor federal government, but it is totally unnecessary at the moment. I will look forward to advancing that particular policy initiative through a state council caucus and the like; perhaps even doing a presentation in a capacity as parliamentary secretary.

In any event, I would be very interested to know—and this is an important question—where there is a matter in his responsibility for local government and/or trade and regional development, in which his department's view or his view is put, on behalf of the department, and that view is rejected by the cabinet for whatever reason, will that then be a matter affecting the business community and/or a matter of conscience? In other words, what will happen if the member for Mount Gambier is rolled in cabinet? I think that is very important. If he is rolled in cabinet, will he be able to say, 'My submission was rejected by cabinet,' or will he be bound by cabinet confidentiality? I say that in the context of matters which might be significant matters affecting the business community and/or issues that Mr McEwen the member for Mount Gambier believes to be a matter of conscience. They are very broad portfolio responsibilities.

For argument sake, one might think that there are matters of conscience affecting federal-state relations—and one only has to look at the stem cell debate to see that one. It is one thing to be rolled in cabinet in relation to a side issue that might be affecting my area but for which I do not have any ministerial responsibility, but it is entirely another thing if I have a ministerial responsibility for it. The difficulty is what happens if, for argument sake, the cabinet goes in a particular direction in relation to local government? What happens if the member for Mount Gambier says, 'That is a significant matter affecting the business community and I do not support that decision'? What happens if he exercises his right, subsequent to the decision being made and announced, to be critical of that decision pursuant to this agreement? Is he then entitled to ignore the cabinet decision and administer his department contrary to the cabinet decision?

That is a very important question, because, if that is the case, then he is able to say, 'I think this is a dumb decision'—and it might even be a piece of legislation—'I do not support this decision, but I have ministerial responsibility to implement this decision.' What will he do? I think that is fundamental to the operation of this agreement. Is he entitled to implement his decision or is he obliged to implement the cabinet decision? Will we see a real Pontius Pilate performance; that is, 'I do not like doing this to the people of South Australia. This is a disgraceful thing that I do to you, but I will do it because cabinet says that I must.' I will be very interested. I am sure that some of my more mischievous colleagues will ensure that some issues arise which put him precisely in that position, and we would like to know in advance how that will be dealt with.

The Hon. T.G. Roberts: You will be assisting a stable government.

The Hon. A.J. REDFORD: The honourable member interjects: obviously he is not directly repeating what I have said to him privately, but we are all interested in stable government provided it is the right one. Some on this side of the chamber—particularly when you can so quickly shred such an important cornerstone of your government, so quickly ditch it into the bin—have reservations as to whether the right group of people is on the right side of parliament. Indeed, this issue of cabinet confidentiality is very interesting particularly, when one looks at what may or may not happen in relation to his portfolio. I will take members quickly through what the agreement says. Clause 3.1 provides:

> The minister will be provided the same cabinet papers as every other minister.

It is interesting to note that the agreement uses the term 'cabinet papers' and 'cabinet documents' interchangeably. I would be interested to know what the difference is between a 'cabinet paper' and a 'cabinet document'. Perhaps that is just a drafting issue—and I am not a good drafter, so those who were involved in the drafting need not feel that I am being critical of them.

Clause 3.3 provides that, if after reading a cabinet document and the minister thinks it is inconsistent with his independence—and I assume 'independence' means the sort of issues set out in clause 2.7, that is, 'significant matters affecting the business community and issues believed to be matters of conscience'—he has to tell the Premier and give his reasons. He has to meet with the Premier and he has to seek an accommodation, and if they cannot, pursuant to clause 3.4 he has to give the Premier notice, and pursuant to clause 3.5 it sets out when he can. I am not sure whether clause 2.7 comes within that or it is confined specifically to clause 3.5. He has to immediately return to the office all copies of the cabinet documents and absent himself from the cabinet discussion.

When getting the drafting instructions, whoever drafted this must have looked across the table at the Premier and the member for Mount Gambier with extraordinary puzzlement on their face that said, 'How can I draft the impossible?' Let me explain a set of circumstances. What happens if a submission is put to cabinet with which the member for Mount Gambier strongly disagrees? According to this, he has to ring the Premier and have a chat: he does that. Let me say what might happen then. The Premier might say, 'Look, Rory, come along to cabinet because with your vote I am pretty sure your view will prevail.' He goes along to cabinet, he takes along the papers and he gets rolled. Let us say it is an issue affecting his electorate, a significant matter affecting the business community or such other matter that he has advised the Premier in writing. What does he do then? Is he in breach?

At the end of the day, clause 3.6 says that, if he is to have a dispute, then he has to return everything to the cabinet. If members analyse clause 3.6 properly, what this basically does is give the Premier two votes in cabinet, because if members look at the practicality of this clause what it says is: 'I am not disagreeing with cabinet, it is actually if I disagree with the Premier.' Either that, or if members take this clause literally, what will happen is the Premier and the member for Mount Gambier will have to go through the agenda, have a special little internal cabinet meeting and go through every single item before they get to cabinet. The Premier will have to

guess what decisions will be made just in case the member for Mount Gambier might be on the other side of the vote. Anyway, it will be very interesting to see how that works in practice. It will be very interesting, and unless we are really mean and nosy like a ferret, we will not get all the details of this, but it will create very interesting tensions within the cabinet.

What happens if he breaches clause 3.6? I know the honourable member relatively well: I know what he will do. What happens when he does not go through the process set out in clauses 3.1 to 3.5, that is, the process of having a discussion with the Premier and returning cabinet papers? Let us say that he does not do it. Let us say a decision comes out of cabinet that he does not like and he feels strongly enough to comment on. I am not sure how long the seduction of the white car will last: it may last the whole of the term of this agreement—and I know some members opposite are vigorously nodding, but I am not too sure about that—

The Hon. Caroline Schaefer: And for another four years if they get back in.

The Hon. A.J. REDFORD: I will come to that a bit later. I am not sure how that will work. What will the honourable member do? What will the Premier do? I can see it now, if the Premier approaches him and says, 'Hang on, you did not got through the process set out in clause 3,' the honourable member will say, 'Yes, but Premier I thought I would get this through; I did not think it would get to this point.' It will be very interesting what the Premier does in that situation. Will he sack the minister because he is in breach of this agreement? I can tell you, Mr President, that he will not because, just like the Ministerial Code of Conduct is subject to political expediency, this agreement will be subject to political expediency.point.'

If members think that they can hold the member for Mount Gambier to this agreement, they must think that pigs can fly, and that is because of political imperative. We all know what this Premier is about—political imperative first, Ministerial Code of Conduct second, agreements between people third—and it will all be subject to that political imperative. The Premier, based on information given to me by some of his colleagues, is actually running very true to form when I make that statement.

I turn now to the term of the agreement. I have been subjected to a couple of interjections from my side about the term of the agreement. I have gone through it and I might have missed a point, which is not without precedent, I might add. Under the heading 'Effect of agreement', clause 6 provides:

> The parties acknowledge that this agreement represents their understandings and intentions, but that neither party is thereby constrained from acting in what he perceives at the time to be the best interests of the state of South Australia. However, both parties undertake, so far as is consistent with their duty, that before taking any action to bring this agreement to an end that party will communicate with the other with a view to reaching some accommodation consistent with the intent and purpose of this agreement.

The first thing I would be interested to know is whether this clause overrides every other clause in this agreement, which overrides every clause that is inconsistent in the Ministerial Code of Conduct. I would be interested to learn whether this all-embracing clause, which is set out in writing, and all this other stuff is just paperwork—as long as I keep dishing up the white car, the super and the extra salary you can do what you like. I have a sneaking suspicion that that is what this agreement, when you really strip it down, is saying.

The second thing I want to raise is the issue of the term of the agreement. The agreement itself appears to be silent about how long it lasts. A number of things have suggested that this agreement is for seven years. Before we vote on the third reading, I would be interested to know what the term of this agreement is and what the understanding is from the government's perspective concerning this agreement. I would be interested to know whether or not the government subscribes to the Westminster system. I would be interested to know whether the government acknowledges the Westminster system and the will of the people, or whether this agreement will prevail.

I would also be interested to know whether there are any other arrangements between the member for Mount Gambier and the government that are not contained within this document. If there are any instruments, documents, agreements or any notes that evidence any written agreement, I will be asking the government to table them in this place so we know precisely what the member for Mount Gambier's ministerial responsibilities are. That is vital and, if there is an absence of that, while this government's record on openness and accountability is shattered—and I refer members to page 4 of today's *Advertiser*—I will be lodging FOI applications, and I hope that the government would provide those.

The other issue that I wish to raise is the scenario set out in clause 1.2 of this agreement, as follows:

> This agreement is conditional upon:
>
> 1.2 The enactment by the parliament of South Australia of an amendment to section 66(2) of the Constitution Act 1934 (SA) permitting the membership of Executive Council to include all ministers, even though the number of ministers exceeds 13.

I have already alluded to this. As I said earlier, I would be interested to know why it is absolutely fundamental that every member of cabinet be a member of Executive Council. It seems to me that not much turns on it, but I am sure that the minister will take the opportunity to give me a constitutional lecture if I am wrong. Secondly, as part of that same clause, the agreement states:

> The parties agree that they will each use their best endeavours to obtain the relevant approvals and amendments and that, in the event that such approvals and amendments are not obtained, they will enter into discussions to ascertain if any other like agreement can be made.

If this legislation fails, will the minister be appointed to cabinet and will this agreement operate, notwithstanding the fact that some other ministers might have to be appointed or resign from Executive Council? My question concerning who are and who are not champion ministers, which was asked before this announcement was made, will achieve some practical importance should this bill fail, because the Premier will be forced to pick champion and non-champion ministers, notwithstanding the fact that, in an arrogant answer to the question, the Leader of the Government in this place seemed to think that every single one of them is a champion, and that will come back to haunt him.

An honourable member: Hear, hear!

The Hon. A.J. REDFORD: I can guarantee the honourable member that, given a couple of years, you will be whittled down to perhaps one, if that. It was one of the most arrogant statements—and you hear a lot in this place—that I have ever had the good fortune to hear from a significant person.

The Hon. G.E. Gago: You are spitting the dummy because you have dropped the ball.

The Hon. A.J. REDFORD: The honourable member who interjects just shows her political naivety. When it appears on brochures at the next election that the arrogance of this government is such that it describes itself as a series of champions, the people will make their own judgment. I would be very interested to know what the government proposes or what the options are, at least, should this bill fail.

Finally, there is one other aspect, and it goes back to the code of conduct, which is discredited, shredded and no longer all that important, but I know that there are some who cling to it in the hope that this is an aberration, notwithstanding the fact that I will be telling everyone I talk to not to take too much notice of this document because it is torn up every time there is a problem. I refer to clause 3, which deals with conflicts of interest. A primary passage in this discredited, shredded Ministerial Code of Conduct states:

> Ministers should avoid situations in which their private interests conflict, have the potential to conflict or *appear* to conflict with their public duty.

The word 'appear' is in italics, and I suspect that is because it is very important. We know what this Premier and this government is all about. It is not about substance: it is all about appearance, and that is probably the most important issue. It goes on to talk about the importance of conflict of interest and it is set out in some more detail than other issues that appear in the document. As I have said, I note that the member for Mount Gambier will be minister for local government, trade and regional development, and minister assisting the minister for state-federal relations.

It was suggested to me that the member for Mount Gambier is entering a nest of vipers. There is a lot of jealousy about the position, and a lot of people within the Labor Party will be looking for opportunities to bring him down and looking for opportunities to discredit him. We have already seen some examples of that and they were outlined by the Hon. Robert Lucas in his contribution. It is important that the member for Mount Gambier understands the nest of vipers into which he is walking and that he takes some steps to protect himself before he gets into that nest of vipers. I note that in his register of interests the honourable member lists a creditor called PISA.

I am not sure whether or not that refers to PIRSA, but I would be interested to know whether the Premier is aware of the member for Mount Gambier's debt to PISA? What is PISA and will it affect his ministerial responsibilities in trade and regional affairs? It may be that PISA is the precursor to PIRSA that currently exists. In relation to the Ministerial Code of Conduct, I would be interested to know what arrangements are being made to ensure that the member for Mount Gambier is no longer a creditor of a government agency. I know that the Ministerial Code of Conduct is shredded and subject to all sorts of things, but the member for Mount Gambier will be grateful for my pointing out that, at first blush, there does potentially appear to be a conflict with his public duty.

I point this out because, given the business of the preparations, the measuring up of the white car and all of those things, he may well have overlooked that. One would like to see that issue resolved before he takes his oath of office which, I understand, has been brought forward—assuming that this legislation goes through today but, of course, that will be subject to some of the questions being answered that I have put on the record this morning. I also would be grateful to know whether the honourable member has entered into any other financial arrangements.

I know that all sorts of things have been said, but I would be particularly interested to know whether there are any sources of funding from any government agency that, perhaps, go through other bodies, such as the South-East Economic Development Board, and what those interests are so that they are out there, up-front, so that we all know the position as it relates to the honourable member. I say this in his interest because I know that some members of the Labor Party would seek to use this information to discredit him and to have him removed from cabinet so that their career advancement—which some of them think has been put on hold—can move back to its inevitable march towards their ultimate political ambitions.

The Hon. T.G. Roberts: He might make you his personal manager.

The Hon. A.J. REDFORD: No; unfortunately, I am busy. This will be the member for Mount Gambier's only opportunity. I am going to be thorough because he probably will not get the opportunity to fix and explore these issues. I say this only because we on this side are a little anxious that he does not understand the nature of the beast with which he will be dealing over the next 3½ years; or, if I accept what the Hon. Rob Lucas said by way of interjection, and if I accept the absolute supreme arrogance of members opposite, for some 7½ years—not even the Premier is claiming that one. I would be very interested to know whether there are any such arrangements and what the minister has in mind in so far as that is concerned.

I want to know how things will be done in practice. At page 59 of Selway's book—it is a very good book and I recommend all members to buy one, although it is a bit outdated because we keep changing numbers in cabinet, rules and that sort of thing; it ought to be loose-leaved the way this government seeks to knock around the Constitution. At page 59, under the heading 'Responsible Government', the now Justice Selway states:

> It is an essential element of the Westminster system of government that the cabinet can demand a majority in the lower house and that it can obtain supply. This is achieved through a variety of conventions and legislative provisions.

I would have to say that, when he wrote this book, Brad Selway certainly had not thought of what this government did in relation to this agreement. It is a little bit silent on those issues, but perhaps Justice Selway is not so politically motivated and prepared to throw conventions, promises and ministerial codes of conduct out the window as soon as a political opportunity comes wandering past.

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Pardon?

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: Anyway, Justice Selway's book further states:

> Ministers are responsible to the parliament for the administration of acts for which they are responsible and for the actions of the departments and public servants under their control.

Justice Selway further states:

> Ministers are obliged to answer questions asked of them in parliament concerning their portfolio. . .

I would be seeking an assurance that, in relation to his proposed significant ministerial responsibilities, the honourable member will be answering the questions; that other ministers will not jump up and seek to answer questions. I would also be interested to know whether, if an issue does arise under clause 3 of this discredited agreement, the minister can still be asked questions or whether other

ministers, where he has sought to criticise government policy, will subsume that responsibility. It is an extension of the issue I raised earlier about whether he will be obliged to implement decisions with which he does not agree.

Secondly, last week I asked a series of questions—I have not had answers and, I think, the time has come for answers. One might recall that I asked a series of questions of the Minister for Aboriginal Affairs. I asked these questions in the context that the—

The Hon. T.G. Roberts: What date were they asked?

The Hon. A.J. REDFORD: They were asked on 20 November. The member for Mount Gambier is the minister assisting the minister for federal state relations—

The Hon. R.K. Sneath interjecting:

The Hon. A.J. REDFORD: If the honourable member looks—and I know that there are some long words—at the *Notice Paper* and at some of the questions I have asked and some of the questions asked by the Hon. Terry Cameron he will see that they have been sitting there for months. I suggest that, instead of shooting barbs across the chamber, the honourable member get up off his fat bronze and quietly talk to a couple of ministers and get them to answer some of the questions, instead of running around in his usual arrogant manner and lecturing others when we have no responsibility.

The Hon. R.K. Sneath interjecting:

The PRESIDENT: Order! The Hon. Mr Redford will direct his remarks through me, and the Hon. Mr Sneath will cease to interject.

The Hon. A.J. REDFORD: I thank you for your protection, Mr President. I did ask a number of questions about this issue in relation to the minister assisting the minister for federal state relations. I said to one wag the other day, 'How is this going to operate with the Treasurer and the member for Mount Gambier?' The Labor backbencher (whom I will not name because we do not do those things over here) said to me, 'Oh, yeah, that means that the Treasurer will do all the overseas trips and the member for Mount Gambier will do the Canberra trips.' I will be interested to see who goes on what overseas trips. That response did bring a wry smile to my face—as it is currently doing to all members opposite—knowing the penchant the Treasurer currently has for kicking onto the front seat of a plane and zipping off overseas.

The PRESIDENT: Order! The honourable member should confine his remarks to the bill.

The Hon. A.J. REDFORD: This is relevant because I want to know who will do what trip and when and what responsibility they have. I made the comment that under our system of government ministers are accountable to parliament. Parliament has to know who is to be held accountable for what, which ministers should resign when inevitably we uncover hopeless administration, and to whom should a public servant go. I was not being critical—I think it is very important that there be some delineation.

What is important in considering how I personally vote on this bill is, first, how we will determine who is responsible for what. Will the Ministerial Code of Conduct be amended to set out what is to happen when ministers assisting are appointed? For example, if there is a muck-up, should they both resign or should it be just one of them, and how do we determine which one? Who will be responsible for decisions on matters that do not go to cabinet or the management of funds in relation to federal-state relations? The member for Mount Gambier or the Treasurer? Who will be responsible for attending meetings, particularly meetings of the Economic Development Authority? The member for Mount Gambier or the Treasurer? Will the government come clean as to what is meant by 'minister assisting'? These are very important questions. With those few words, I look forward to an interesting, engaging and lively committee stage.

The Hon. CARMEL ZOLLO secured the adjournment of the debate.

UPPER SOUTH EAST DRYLAND SALINITY AND FLOOD MANAGEMENT BILL

Adjourned debate on second reading.

(Continued from 27 November. Page 1520.)

The Hon. T.G. ROBERTS (Minister for Regional Affairs): I thank the Liberal Party for its support for this bill and its cooperation in getting consensus for the bill in the council. This is an important bill which needs to be processed before the finalisation of this sitting. The opposition has indicated a number of amendments which we will be pleased to consider in committee. The government realises that Liberal Party support for this bill was reached following wide discussion and many briefings, and I thank the officers involved in those briefings as well.

The government is pleased that the Liberal Party understands that, to be able to complete this scheme within the next four years, the proposals in the bill are required. To obtain surety to access the land for construction works the immediate acquisition of the drainage routes is required. To be able to provide surety of progress towards the environmental outcomes (particularly environmental and vegetation targets of the project) the concept of land management agreements that can be negotiated with land-holders as an offset for the payment of levies is also required.

Many of the amendments proposed are in the spirit of the proposed legislation and add clarity to the management of the land acquired under the bill. There are some agreed positions regarding technical amendments. The opposition again seeks an assurance of the government's intention on acquiring the land. I assure the opposition that the 200 metre acquisition on the drainage routes is to provide surety to be able to construct the drains on that land and that land not required for these works will be transferred back to the appropriate party.

It has always been the intention of the government to acquire the land for the project works and transfer the remainder back to the appropriate party. Land-holders will also be able to access and use any of the compulsorily acquired land until drainage works begin on their properties. The government is keen to progress the project, and I look forward to debating the amendments in committee.

Bill read a second time.

In committee.

Clause 1.

The Hon. CAROLINE SCHAEFER: I would like to give a brief summation. The amendments that I will move have not been arrived at lightly or easily, and they attempt to provide a balance between the needs and, indeed, concerns of the land-holders in the Upper South-East and the overriding need to move forward quickly and in a determined fashion with the completion of the Upper South-East drain. However, a couple of concerns have been raised with me in the last 24 hours or so, and I felt it best to address them at clause 1 to give sufficient time for the government to reply by the time this bill reaches another place. As I have said,

there has been a great deal of hard work—in my case, anyway—to arrive at what I hope turns out to be a solution for the people in the Upper South-East.

One of the queries that has been raised with me is a little complicated. A tract of land 200 metres wide will be compulsorily acquired. My understanding is that a separate title will be issued to the minister, which will be a freehold title, and will revert to the owner of the land at the end of the project. This, of course, will be a new title. As we know, prior to that magic date—whether it was 1985 or 1987 I can never remember—land or property held is not subject to capital gains tax. However, land or property post that period is subject to capital gains tax. It has been put to me that, when the land reverts to its original owner and is either passed to an heir or sold, the new title will, indeed, attract capital gains tax for the original owner.

This seems to me to be an inequity, since these people have not sold their land: they have had it compulsorily acquired and, in most cases, they have willingly submitted to that, and they will have paid their levies for the whole of this time. It seems to me to be an inequity. In many cases it will not be a large parcel of land, but in some cases it will amount to a number of hectares, and the capital gains tax will have been unintentionally attracted by the landowner. I recognise that capital gains tax is a federal tax, but I ask that the minister address this problem as best he can prior to this bill's arriving in another place. It seems that we are at odds, I think, on only one amendment, but I will speak to the amendments as we go through.

The Hon. T.G. ROBERTS: If the member wants a reply to the taxation question, I can give only a partial answer. My information is that negotiations and discussions are being carried out, probably as we speak, but we may not have the full answer before we get into the final stages of committee on this issue.

Clause passed.

Clause 2 passed.

Clause 3.

The Hon. CAROLINE SCHAEFER: I move:

Page 5, line 14—After 'Upper South East'; insert:
that are identified as key environmental features by regulation made under section 4

This amendment seeks to have key environmental features identified prior to the commencement of work. My understanding of the bill is that it allows the minister to undertake certain works to what are identified as key environmental features outside the designated corridor—the designated project area. I suppose the best way I can explain the worst case scenario that I can see happening is the case where someone may have a small wetlands which they use as a picnic area or to water stock, or a small localised underground basin of fresh water which, by the lowering, either intentionally or unintentionally, of the watertable, becomes saline. There could be areas, for instance, of native vegetation that the minister considered it necessary to be cleared, obviously with the permission of the Native Vegetation Council. All I seek by this amendment is that the owner of the land be told of these environmental features—what they are and, preferably, the likely outcome of interfering with key environmental features—prior to that action taking place. I understand that the argument of the government against this is that it is impossible to identify these key features in advance.

With due respect, there have already been six years during which government officers have traversed that country backwards and forwards trying to establish where they will put a drain, and I would have thought that several people would already know exactly what environmental features they are talking about. I do not imagine that they would be great or vast in quantity, and, for the life of me, in practical terms, I cannot see why these cannot be identified. However, later in the bill I will seek to allow access to and management of the land by the landowner until the work progresses and as soon as the work finishes on their individual property, rather than having them be inconvenienced until the entire project is finished.

In the interests of cooperation, I would be happy for the government to consider over the lunch break moving an additional amendment, if it wished, along the lines that the key environmental features are identified prior to individual work on people's properties rather than identified across the entire project before commencement of any work. Obviously, this is an exceptional bill allowing exceptional powers, and it should, in my view, not be a precedent for anything else and it should be enacted as quickly as possible and completed as quickly as possible. The last thing I would want is to hold up progress.

So, I would be prepared to consider the identification of key environmental features occurring on a progressive basis. But I do not think it is unreasonable for someone who has occupied and worked the land, probably for generations, to know what effect—both positive and negative, but in this case negative—this project may have on their land and their ability to manage and stock their land. So, I will move my amendment but would be happy to consider an amendment from the government along those lines.

The Hon. T.G. ROBERTS: I can give an undertaking that the member's comments will be considered and discussed during the break and, when we recommence the committee stage, I will be able to give a reply on the determination in relation to those considerations.

Progress reported; committee to sit again.

[Sitting suspended from 1.02 to 2.15 p.m.]

DAVIDSON, Mr G.S., DEATH

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That the Legislative Council expresses its deep regret at the recent death of Gordon Sinclair Davidson, a former senator for South Australia, and places on record its appreciation of his distinguished public service, and that as a mark of respect to his memory the sitting of the council be suspended until the ringing of the bells.

I move this motion of condolence to mark the passing of former South Australian senator Gordon Davidson CBE, who died last Monday at the age of 87. Mr Davidson was appointed to the senate in 1961. From 1975 to 1981, I worked in the commonwealth parliamentary offices in the AMP building, just across the road, where senator Davidson also occupied an office. Gordon Davidson was always friendly and charming, and I know that he was widely respected by members of all political parties. Following his retirement, from time to time I bumped into Mr Davidson and his wife, and we exchanged pleasantries and memories about life in the parliament at that time. He was also a friend of the former member of parliament that I worked for.

Mr Davidson was born in 1915 and was a farmer before entering federal parliament, having served as a councillor to the Strathalbyn District Council from 1942 to 1950. Mr

Davidson served the federal parliament for 20 years, sitting on a number of government committees, including local government, immigration, education and national development. Mr Davidson was the Chair of the Water Pollution Select Committee from 1968 to 1970 and, as someone who has had a long interest in water matters, I am aware that the report of this committee was really a landmark in the recognition of salinity problems in the Murray-Darling Basin and other water pollution problems in Australia.

Mr Davidson was also Organising Secretary of the Presbyterian Church of South Australia for many years and was a past president of the South Australian Royal Flying Doctor Service. On behalf of the government, I extend my deepest sympathies to Gordon Davidson's wife, Patricia, and his family.

The Hon. R.I. LUCAS (Leader of the Opposition): On behalf of Liberal members, I rise to support the condolence motion. A number of members of the Liberal Party would have known Gordon Davidson and his wife, Pat, very well. Indeed, my colleague the Hon. Di Laidlaw will probably recall that, some 20 years ago when we stood for pre-selection, Gordon Davidson was actually a member of our state council, which was the governing body of the—

The Hon. T.G. Roberts interjecting:

The Hon. R.I. LUCAS: Well, I'm not sure how he voted, so I am not sure that one can attribute the fault, as you might see it, of me being here, to Gordon Davidson. He was a member of our governing body, the state council, which, from memory, was a body of some 230 members or so—

The Hon. Caroline Schaefer: Two hundred and twenty-nine of whom voted for the honourable member.

The Hon. R.I. LUCAS: I don't think so, but I wish! I recall my first visit to his home. I had spoken to him as someone associated with the Liberal Party in the period leading up to that, but this was my first visit to his home in, I think, the Glenelg area. As the Leader of the Government has indicated, with regard to his relations with Gordon Davidson as a member representing an opposition party, he was unfailingly courteous and hospitable. He was a dapper dresser. On the occasion of my visit we had morning tea. We had a cup of tea and something to eat, I suspect, and he meticulously worked through a series of questions, in order to hear the answers of the prospective candidates for the Legislative Council pre-selection at the time. I do not recall all of the questions, but I do know that his great interest, as a senator, was in the powers of the upper house and, in particular, the value of the committee system of the senate and how that might be improved, in terms of the operations of the state upper house, the Legislative Council. It was an issue that we discussed during that morning tea.

Gordon Davidson's term would have finished around the same time as my colleague, the Hon. Di Laidlaw, and I started our parliamentary careers—in the early 1980s. As the Leader of the Government has indicated, Gordon Davidson's experience in his twenty-odd years was impressive. I will not go through all his experience but when one looks at his CV it lists an impressive record of service on standing committees, estimates committees and select committees of the senate. It was his great love. It was the area that he excelled in in terms of working hard to put his own views but also, where appropriate, the views of the Liberal Party during those committee meetings.

As someone who was in parliament for twenty-odd years, he was very active in terms of parliamentary delegations and involvement in the Interparliamentary Union and CPA conferences. He had a great love of the parliamentary system, and that was evident during his period in the senate. As I indicated, he served on the state council. I must admit I had not recalled this, but his CV notes that he was actually a member of the state executive of the Liberal and Country League of South Australia for some period, which, as the name suggests, is a relatively small body, although larger in those days, and which is responsible for the day to day administration of the Liberal Party.

Subsequent to his period in parliament he remained very active in a number of community organisations. I know he had an interest, at one stage, in the University of Adelaide and continued to maintain very active associations and interests, in terms of his community service, in a number of other areas. So, on behalf of Liberal members in the Legislative Council, I publicly acknowledge the excellence of service that former senator Gordon Davidson and his wife Pat provided, not only to the community but also to his party—the Liberal Party—and our condolences go to Pat, his family and his friends.

The Hon. IAN GILFILLAN: On behalf of the Democrats, I indicate our support for the condolence motion. I came to know former senator Gordon Davidson through contact mostly in this place. I remember him as being most courteous and friendly. At the stage, when I first came into the place, friends of the Democrats were hard to find. I never really determined in the early days whether—

The Hon. T.G. Cameron: Still are!

The Hon. IAN GILFILLAN: No, we are much more warmly regarded these days. I was never quite sure, though, whether it was a case of mistaken identity, because he frequently called me 'Gordon' in connection with my cousin who had been the Liberal whip in this place just prior to my entry into parliament. My cousin, unfortunately, died. However, in spite of that, Gordon did get the identity quite clear. What I do feel is that the praise that has been expressed was genuinely deserved. He left me with an indelible impression of genuine courtesy and genuine care for the people he met as people; and he did not engage in the sort of cat and dog fight of party politics. He showed all the signs of having statesman type qualities in his contribution to politics, and I extend on our behalf our sympathy and condolences on his death to his wife and family.

The Hon. DIANA LAIDLAW: I, too, wish to add a few words to this condolence motion. Gordon Davidson was a wonderful support to me. I always thought that I got his vote at the state council pre-selection and certainly, with the advice that he so freely offered me during my first years in this place, I suspect that he was looking for a return on that vote. I admired him so much because he was one of the exceptional people as an older person who so strongly supported younger people not only in politics but across the community. Some 20 years ago, when I first came to this place, I cannot say that it was a general view in our community that young people ought to be supported, encouraged and praised to achieve more, and given every opportunity to do so. However, Gordon Davidson always did so not only in his work through the Liberal Party but also in the broader community.

I thank him for the example that he set me at that time and the lesson that I continue to apply at every opportunity, that is, to support and praise younger people and help them realise

their potential and often help them gain second chance opportunities in life to do so. I last saw Gordon Davidson and his wife, Pat, at the Australia Day ceremony commemorating Carl Linger at the West Terrace Cemetery on Australia Day. It was a really hot, stinking day and there was Gordon, much weaker physically, but still in his suit—

The Hon. T.G. Roberts: Bow tie.

The Hon. DIANA LAIDLAW: —as the Hon. Terry Roberts says, still in his bow tie—impeccably dressed, nodding and acknowledging everyone with great dignity; and Pat was at his side. They were a phenomenal team and it was again a lesson that I learnt early in my time, that is, the benefit of family support in politics. Pat supported her husband Gordon in everything he did and they did it together and, likewise, when he retired, he then supported Pat with her interests. I most often saw those interests expressed through the women's council of the Liberal Party, and often Gordon would be the one male present and he just loved the attention that he would get from all of us. Through the party, he also offered women plenty of moral support, advice and encouragement.

Finally, I acknowledge his support, too, for his niece Di Davidson, a viticulturist. He was so proud of her achievements and her success as a woman in the field of viticulture, in her writing about the industry, the support, encouragement and knowledge that she has passed on to growers, and now her demand overseas as an adviser in that industry.

So, to Gordon Davidson I say thank you, because he was a really remarkable man, before his time, in my experience, supporting women so strongly in so many fields of endeavour where women did not traditionally work or were not encouraged to contribute. I also thank Pat for being an inspiration to him in that regard. I know that she will miss him desperately, although I appreciate that a lot has been asked of Pat in recent times because of Gordon's lack of physical strength and illness. With thanks, I acknowledge Gordon Davidson's contribution to the state, to the nation and to me personally.

The Hon. J.S.L. DAWKINS: I support the motion. I knew former senator Davidson quite well over a number of years. His 20 years in the Senate almost matched the 20-year period that my father was in this place. They knew each other quite well and, as a result, I got to know the former senator very well. In fact, partly because of his dapper appearance and his slightly old-world attitude, I always found it difficult to call him anything but senator. My father, as a Methodist, and former senator Davidson, as a Presbyterian, used to have some fairly interesting discussions in the pre-Uniting Church days, particularly in the lead-up to the union of those two churches and the Congregational church.

The Hon. A.J. Redford interjecting:

The Hon. J.S.L. DAWKINS: I acknowledge the interjection in that there are still some continuing Presbyterians. They also shared a fairly long membership of the Masonic Lodge in South Australia, and they shared a great interest in rural matters in this state. Like my colleague the Hon. Diana Laidlaw, one of the things that I remember very well about Gordon Davidson was the support and encouragement he gave to young people, particularly young leaders in the community. There was a stage in that generation where some people resisted the opportunity to promote and encourage younger leaders. In closing, I express my condolences to Mrs Davidson and family members.

Motion carried by members standing in their places in silence.

[Sitting suspended from 2.35 to 2.45 p.m.]

VOLUNTARY EUTHANASIA

A petition signed by 21 residents of South Australia, concerning voluntary euthanasia and praying that this council will reject the so called Dignity in Dying (Voluntary Euthanasia) Bill; move to ensure that all medical staff in all hospitals receive proper training in palliative care; and move to ensure adequate funding for palliative care for terminally ill patients, was presented by the Hon. A.L. Evans.

Petition received.

PAPERS TABLED

The following papers were laid on the table:

By the Minister for Agriculture, Food and Fisheries (Hon. P. Holloway)—

Reports, 2001-2002—
- Adelaide Festival Centre
- Adelaide Festival Corporation
- National Wine Centre of Australia
- Office for the Commissioner for Public Employment—South Australian Public Sector Workforce Information
- South Australian Film Corporation
- South Australian Museum Board
- The State Opera of South Australia

By the Minister for Aboriginal Affairs and Reconciliation (Hon. T. G. Roberts)—

Royal Zoological Society of South Australia—Report, 2001-2002

District Council By-laws—Tatiara—
- No. 1—Permits and Penalties
- No. 2—Moveable Signs
- No. 3—Roads
- No. 4—Local Government Land
- No. 5—Dogs.

STATE PROTECTIVE SECURITY BRANCH

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on the creation of the State Protective Security Branch made earlier today in another place by the Premier.

GOVERNMENT, BANKING SERVICES

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I lay on the table a copy of a ministerial statement on banking services to the government made earlier today in another place by the Deputy Premier.

FREEDOM OF INFORMATION

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I seek leave to make a ministerial statement.

Leave granted.

The Hon. P. HOLLOWAY: I refer to an article on page four in today's *Advertiser* (28 November 2002) with the headline, 'Is This What the Labor Government Means by Freedom of Information?' This article refers to a primary industries report provided to the opposition under freedom of information. The article includes the following statement:

Blacked out pages were contained in a report on the commercialisation of research and development within the primary industries department.

The article is misleading as the document in question is not a report on the commercialisation of research and development within the primary industries department but is actually—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: —because the honourable member requested it, that is why; he should know what it is—a tender response/bid from a private company, Technology Commercialisation Group Pty Ltd (TCG) in relation to the procurement—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: —because the honourable member asked for it, that is why—of research and development commercialisation services to SARDI.

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: TCG was subsequently awarded the contract—

Members interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —and, in accordance with the government's contract disclosure policy, the contract between the minister and TCG was disclosed on the South Australian Tenders and Contracts web site. Soon after the awarding of the contract, an FOI request from the opposition was received seeking access to the documents prepared by Technology Commercialisation Group Pty Ltd under this contract. Clarification on several occasions with the applicant's office ultimately revealed that, in addition to the contract, TCG's tender bid was being sought.

On 28 October 2002 the independent FOI officer made a determination not to release TCG's tender bid on the basis of upholding confidentiality of the entire bid document and to protect the business affairs of TCG. In making this determination it was considered by the independent FOI officer that there were confidentiality agreements explicit to the Invitation to Tender document, which both parties—PIRSA and TCG—viewed as confidential.

On 6 November 2002 the applicant sought an internal review to the determination. The internal review provided a new determination allowing partial release of TCG's tender response. This necessitated consultation with TCG and a further consultation with crown law. In essence it was the independent FOI officer's decision to blank out the information as it was considered that to release that information had the potential to cause harm to TCG and PIRSA by which TCG'S competitive advantage may be diminished given this information comprises their business affairs and PIRSA would be found to be in breach of confidence.

The *Advertiser* article also mentions the time taken for agencies to respond to FOI requests. Since March 2002, PIRSA has completed 28 FOI requests. During the period in which the legislation required a 45-day response, six responses were provided at an average response time of 28 days. Since the legislative change on 1 July 2002 providing for a 30-day response time, the remaining 22 responses have taken an average time of 15 days. Three of the 28 applications were dealt with outside the legislative time lines, one of which related to the provision of a complete set of PIRSA's estimates briefing notes and the other two required consultation and an extensive perusal of many files.

The agency has adopted the practice of providing the entire document (including those pages which need to be blacked out in their entirety) in order to substantiate integrity to the complete document. This approach is in line with the state Ombudsman's FOI checklist.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: I repeat: this approach is in line with the state Ombudsman's FOI checklist—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: —look at page 44 of his annual report—which encourages agencies to 'consider the option of partial release and deleting exempt matter in the document'.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

QUESTION TIME

FREEDOM OF INFORMATION

The Hon. R.I. LUCAS (Leader of the Opposition): I seek leave to make an explanation before asking the Leader of the Government in the Council a question about freedom of information.

Leave granted.

The Hon. R.I. LUCAS: On 1 August, a freedom of information request was forwarded to the minister's department seeking a copy of the estimates briefing folders prepared for the Minister for Agriculture, Food and Fisheries and the Minister for Mineral Resources Development. On, I think, 10 September, the Freedom of Information Coordinator in the Department of Primary Industries and Resources SA, Mr Vic Aquaro, responded to the freedom of information request. My question to the minister is: will he assure the council that neither he nor any officer in his ministerial office had any contact with Mr Aquaro before 10 September in relation to this freedom of information request?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The only information that I receive in relation to FOI requests is the existence of their arrival. I certainly have not spoken to Mr Aquaro in relation to FOI—

The Hon. R.I. Lucas: Or officers in your ministerial office?

The Hon. P. HOLLOWAY: I would be very surprised if that was the case. There is a delegated FOI officer in my ministerial office. She is not a ministerial—

Members interjecting:

The Hon. P. HOLLOWAY: Yes, she. Occasionally, as I am sure former ministers would know, requests are made not just to the department for information but are normally referred to the minister's office itself as a separate entity. At least that is my understanding of the practice. I understand that this particular officer occupied this position under the previous minister, the Hon. Caroline Schaefer.

So, I guess if a request were made to my office, there would have to be some mechanism to refer it to the departmental FOI officer, but, certainly, I am not aware of any FOI requests in relation to this matter. I certainly have not had any contact with Mr Aquaro in relation to that request other than the fact that information is provided by my department about what is available through FOI requests. That is the only information that I get, and I am not aware of any staff member having other information, but I will check.

The Hon. R.I. LUCAS: I have a supplementary question, but I think the minister might have responded to it. Given that the Treasurer has indicated that the government is not involved in freedom of information requests that go to departments, can he inquire of the officers within his office whether they had any contact with Mr Aquaro prior to the correspondence coming back to me on 10 September?

The Hon. P. HOLLOWAY: I will make that request.

DROUGHT RELIEF

The Hon. D.W. RIDGWAY: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about drought relief.

Leave granted.

The Hon. D.W. RIDGWAY: In reply to a supplementary question asked on 19 November by the Hon. Caroline Schaefer about the $5 million that has been allocated for drought relief, the minister replied—and I applaud him for some of his announcements, but a couple need further explanation—that $50 000 has been available to assist farmers to manage frost and $720 000 has been set aside for a business support component for exceptional circumstances assistance. My questions are:

1. What type of assistance does the minister envisage will be available for $50 000 to help the farmers manage frost?

The Hon. Caroline Schaefer: It will help them light some big fires!

The Hon. D.W. RIDGWAY: —or maybe buy an electric blanket—

2. Is the funding for this assistance a new initiative or simply an announcement of work currently being undertaken within PIRSA?

3. In respect of the $720 000 that has been set aside for the business support component under exceptional circumstances, what is meant by 'business support component'?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The $50 000 for frost support is really to provide print information, as I understand it, plus support through Rural Solutions or some other scheme through the department to advise farmers how they can best address the problem in terms of crop selection and other factors that may help reduce frost damage. That is a matter that I will leave to the department. If the honourable member wants specific information, I will get that from the department.

The second part of the member's question related to the $720 000 component for business support. There are arrangements, of course, between the commonwealth and the state that have been the subject of some dispute now for probably the best part of 12 months in relation to the payment of exceptional circumstances by the commonwealth. Under the current arrangements for business support, as I understand it, I believe that, in the first instance, it effectively boils down to a 90 per cent commonwealth component with a 10 per cent state component for assistance provided under business support. Effectively, the main component is interest rate subsidies provided by the commonwealth.

There have been moves by the commonwealth to try to get the states to pay 50 per cent of that component. If that was the case, obviously, the money that the states have available to provide farmers in exceptional circumstances would be reduced. So, there has been some dispute over that matter and, indeed, all of the states have rejected the commonwealth's approach to change the formula in relation to that. But, given that the existing formula remains, that is the estimate of what the state would need to provide for its component of exceptional circumstances assistance should the commonwealth approve the packages, which we hope to have before it next week.

As I pointed out to the council in an answer last week, commonwealth officers were here to help farmers and the department, in relation to the Murray-Mallee and the North-East Pastoral Zone, with how they could best present the case that is most likely to succeed in relation to exceptional circumstances, and those submissions should be lodged very shortly. An amount of $720 000 has been set aside. Assuming that those applications are successful—and we hope that they will be—that sum will provide the state component of that support. Of course, we would expect that the remainder would come from the commonwealth under the current formula. It is my understanding that this formula may be addressed at the forthcoming COAG meeting.

The Hon. D.W. RIDGWAY: Can the minister confirm that, in relation to the $50 000 frost funding, work is already being undertaken under the existing PIRSA staffing arrangements?

The Hon. P. HOLLOWAY: Certainly, work is being continued by my department. Obviously, with this money being made available, the work of the department in this area can be extended. I will obtain for the honourable member the details from the department regarding the components of that program and how it is being funded.

WATER SUPPLY, ERNABELLA

The Hon. T.J. STEPHENS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation a question about the Ernabella water supply.

Leave granted.

The Hon. T.J. STEPHENS: I was pleased to hear that a new diesel generator is being installed to power the bore pumps at Ernabella as the stand-alone power source. Obviously, this will solve the problem of pumps being burnt out by high voltage through the main power station. This is a welcome step. However, the generator and bores are located some four kilometres away from the community and will need to be refuelled every day by a maintenance officer—possibly for the next couple of years until a new power station for the Pit lands comes online. In itself, this is manageable. However, because the generator is 100 metres from the road and so far away from the community, there is a real possibility that diesel will be stolen or siphoned off by passing motorists, or the generator itself may even be stolen.

Clearly, this is another short-term measure to keep water flowing to Ernabella, but it certainly should not be relied upon in the longer term. I understand that a new power station will involve four to five stages over a number of years. Stage 1 was due to start under this year's budget but, sadly, was deferred. My questions are: can the minister advise the council of the time line for the power? When, specifically, will stage 1 commence?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I thank the honourable member for his important question and his ongoing interest in the remote and isolated regions of the state. I have some information in relation to the provision of the central power station. I am advised that, on 13 February 2001, it was announced that a new state-of-the-art $14.3 million power station and distribution grid would be built on Anangu Pitjantjatjara

lands. The power station is designed to generate electricity using 3.0 megawatt diesel-powered generators augmented with a 200-kilowatt solar field. The power will be distributed to seven major Aboriginal communities and many homelands along the 250 kilometres of distribution lines to be erected as part of the project.

I acknowledge the honourable member's interest in security. It is an existing problem with petrol supplies, and it has been found necessary to take very protective measures by building cages around the supplies (the pumps) and, in some cases, where drums are stored. The solar fields will consist of 10 solar concentrated discs that track the sun.

Recently, I visited that site, and testing programs were being run to coordinate the tracking mechanisms and the electronic signalling devices that alter the directional finders that track the sun on a daily basis. The technology is state of the art, and it is an incongruous situation in the lands, where in very isolated regional areas of the state with very little service provisioning of what would be regarded as human services or emergency-style services, people are living alongside 21st century technology which has to be installed, maintained and protected to make a contribution to the systems up there.

Each dish is approximately 14 metres in diameter and can produce 20 kilowatts of electricity. There are also real prospects of further development and extension of the solar field. It is hoped that the existing numbers of solar collectors can be extended. The project, which is using a lot of federal money and ATSIC money, is regarded as a major step forward in practical reconciliation. It is a modern, technologically-advanced innovation providing Aboriginal communities in the AP with access to a very reliable power supply and with significant health benefits accruing from its single location outside of the communities. I have had complaints, and I am sure the honourable member has, too, about the noise, particularly on still nights, which comes from the diesel generators that are parked reasonably close to the communities.

The current status is that on 5 March 2002 the Public Works submission and a report prepared by the Public Works Committee were tabled in parliament recommending the project. The risk manager for the Department of Administrative and Information Services (DAIS) has proposed that DAIS be principal consultant, and a proposal from DAIS is to be presented to DOSAA.

All 10 solar concentrator dishes and skeletal frames have now been assembled on site and reflectors have been installed on three of the frames. In the first week of August 2002, the solar concentrators were constructed on their bases and mirrors were installed ready for the control systems, PV cells and permanent fixing on their 5 metre base columns. The central power house has had a preliminary design concept with DAIS Project Services and Risk Management Services, and DAIS has obtained a detailed quotation from a specialist consultant for power generation, control systems and distribution. DOSAA is currently examining the fee offer.

In addition, I am very interested in providing the infrastructure support through TAFE and other education service providers to try to bring the operational functions, in particular, the maintenance programs, into a program where Anangu Pitjantjatjara people themselves can be involved. At the moment, the criticisms that governments of all persuasions have copped over the years is that we have fly-in and fly-out contractors who do not leave a lot of information behind and do not train young Anangu people for these roles and functions. We are certainly taking into account the fact that the power supplies, both the diesel generators and the solar collector system, could, should and will be part of an integrated program for employment-generation projects. Hopefully, we can then start to aggregate job opportunities within the community, so that education and training can provide some hope for young people who, at this moment, see few opportunities and revert to the negative activities of petrol sniffing and substance abuse.

SMALL HIVE BEETLES

The Hon. R.K. SNEATH: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question on small hive beetles.

Leave granted.

The Hon. T.G. Roberts: On what?

The Hon. R.K. SNEATH: You listen, and you'll find out. The exotic bee pest, small hive beetle, is, by and large, an economic pest that can contribute to hive mortality and damage. It is spread by the movement of bees and—

Members interjecting:

The Hon. R.K. SNEATH:—yes, real well in South Australia—bee farm equipment which may be carrying beetle eggs. Tunnelling larvae can cause honey spoilage and often seepage results. There is some concern that this seepage will in turn increase the spread of American foul brood disease. I am not really familiar with that. Basically when seepage occurs robbing of this honey by bees from other hives is likely to take place. If the bees return infected honey to an uninfected hive, they will unwittingly take the disease back via the honey.

I understand that the small hive beetle has recently been detected in bee farms in Richmond in New South Wales. Can the minister explain to the council what steps have been taken to deal with this pest? If the bees return infected honey to an uninfected hive, they will unwittingly take the disease back via the honey. I understand that the small hive beetle has recently been detected in bee farms in Richmond, New South Wales. Will the minister explain to the council what steps have been taken to deal with these pests?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank the honourable member for his question because the apiary industry is very important to this state not only in terms of the honey produced but also in that it provides a very important service in terms of pollination of crops. When I was in the Riverland the other day, I inspected one of the large orchards in the area (something over 560 hectares), and they have to bring in bees to ensure that the rapidly growing number of almond trees (which is a very lucrative market for this country) are properly pollinated. Obviously, anything affecting the health of bees has a significant impact on this state's exports. Therefore, it is with some concern that we learned of this outbreak of this particular pest: unfortunately, just another bio-security threat we have had in this country in recent years.

All I can inform the council is that, to date, New South Wales surveillance and tracing activities have identified 103 infected properties in four restricted areas around the state: the greater Sydney basin, Cowra, Stroud and Binalong. Queensland, the only other known affected state, reports that its small hive beetle infection is believed to be restricted to 11 sites (four are still awaiting confirmation) within and around the Beerwah State Forest region. Recent hive surveillance activity has also identified one affected feral

colony near the pest introduction point. The current indication is that Queensland may consider an eradication program funded by the state given the localised nature of the pest.

Fortunately, no other state, including South Australia, has identified small hive beetle as a result of potentially affected caged queen bees from affected premises in New South Wales or Queensland. The Consultative Committee on Emergency Animal Disease (CCEAD) commissioned a technical working group (representing technical experts, industry, affected states and the commonwealth) to assess possible eradication models. Scenarios investigated included: do nothing; implement beekeeper control strategies; eradicate restricted areas other than the Sydney basin; eradicate only infested apiaries and known local feral colonies; and full eradication.

After considering feasibility and cost estimates, the CCEAD on 18 November 2002 decided that eradication of small hive beetle was not a cost-effective solution. All members, including apiculture industry members, supported the development of a national control program (involving industry and government) that would:

- develop and implement protocols for the control of small hive beetle (including the possibility of audit arrangements as part of a market assurance program);
- provide training on the use of approved chemicals for the control of small hive beetle; and
- assist with research on small hive beetle control methods.

This recommendation was forwarded to the national emergency animal disease management group for consideration as a matter of urgency in order to minimise delays in the development of the national small hive beetle control program. A control program is not covered under the emergency animal disease response cost-sharing agreement.

Fortunately, access to international markets for apiculture products is not expected to be significantly affected if a national control program is implemented. The export of packaged bees and queen bees may be affected, but to what extent is unknown as this stage. The impact of the recommendations for South Australia, where small hive beetle has not yet been detected, include:

- a possible resource redirection of PIRSA apiary personnel from American Foulbrood control to a small hive beetle control extension program, pending industry consultation;
- a potential loss in honey production; and
- increased apiary business operating costs, that is, labour and infrastructure for material sterilisation.

Members interjecting:

The Hon. P. HOLLOWAY: I hope that the Hon. Bob Sneath does take this information back to the area in which he lives because an important part of this industry is in the Mid North. The industry is also very important in the South-East region as well, which is where he came from.

The NMG met on 25 November when it discussed the report from the CCEAD. The NMG, which consists of the heads of Australia's agricultural departments and CEOs of affected peak industry bodies, decided that eradicating small hive beetle infestation in Australia would be not feasible and that a national strategy to assist beekeepers manage this pest would be developed.

To help industry manage the pest, the NMG has asked Animal Health Australia to assist in the development of the nationally coordinated small hive beetle management program. In the meantime, the NMG has urged beekeepers to carefully examine their hives and to report any findings that seem suspicious. I thank the honourable member for his important question about this significant industry.

The PRESIDENT: We can see he got a buzz out of that! The Hon. Ms Kanck has the call.

RELATIONSHIP VIOLENCE

The Hon. SANDRA KANCK: I seek leave to make an explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Social Justice, a question about services to the gay community who have been subjected to relationship violence.

Leave granted.

The Hon. SANDRA KANCK: Domestic violence, termed more appropriately criminal assault in the home, is not an exclusively heterosexual crime. Referred to within the gay community as relationship violence and abuse, it encompasses the gamut of behaviours that individuals choose to inflict on others from psychological power and control issues to assault. Although some services exist in South Australia, there is no widespread promotion of specific services available to homosexual men who are assaulted, either as the result of a relationship or street altercation. My questions are:

1. Does the minister acknowledge the urgent need to promote services to homosexual men who have suffered criminal assault in the home or in public at the hands of loved ones or strangers?

2. Will the minister give an undertaking that appropriately targeted promotion for services will be set up and funded as a priority of her government?

3. Will the minister ensure that training and education is made available to service providers, including the police, who deal with homosexual relationship and street violence?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the minister in another place and bring back a reply.

PUBLIC TRANSPORT

The Hon. T.G. CAMERON: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, questions on TravelSmart and public transport.

Leave granted.

The Hon. T.G. CAMERON: To encourage people to use public transport, the Western Australian government is spending $5.8 million on a campaign called TravelSmart. The program encourages people to make better use of public transport services and facilities by changing people's travel behaviour and has been around since 1997. The program encourages people to replace car trips by walking, cycling and using public transport and to use their cars less where viable alternatives are available.

The Hon. Diana Laidlaw: It was introduced in South Australia three years ago.

The Hon. T.G. CAMERON: I might have missed that. Residents are telephoned to determine each household's interests and, based on individual requests, personalised packages are delivered. Some people also receive home visits to discuss their travel options, receive further information or test tickets so they can try public transport. The program informs, motivates, facilitates and empowers people to make their own travel choices, a crucial factor in affecting behavioural change. Travel surveys are also conducted to monitor the impact of the program independent of the TravelSmart

program. Currently the program costs equal the construction costs of about seven kilometres of a four-lane highway.

The Western Australian government estimates the program has delivered a 17 to 26 per cent increase in public transport patronage and will deliver $10 billion in socioeconomic benefits over the next 10 years. Victoria is also experimenting with a similar program, and Brisbane has a program already under way getting good results. My question is: considering the benefits in lower environmental costs, healthier lifestyles for the community, improved air quality, fewer road accidents, and so on, will the government consider introducing a similar proposal here in South Australia?

The Hon. Diana Laidlaw: Can I ask another question?

The Hon. T.G. CAMERON: You are entitled to ask a supplementary question.

The PRESIDENT: Only through the chair.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those questions to the Minister for Transport and bring back a reply.

The Hon. DIANA LAIDLAW: I have a supplementary question, following the enthusiasm of the Hon. Mr Cameron for this excellent scheme. Will the minister confirm that the former government's support for TravelSmart programs in the southern suburbs has been continued, what is the plan for the future of TravelSmart programs across the metropolitan area and what money will be spent this year?

The Hon. T.G. ROBERTS: I will refer those supplementary questions to the Minister for Transport and bring back a reply.

POLICE RESPONSE TIMES

The Hon. J.F. STEFANI: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Minister for Police, a question about police response times.

Leave granted.

The Hon. J.F. STEFANI: I have been reliably informed that, on Wednesday evening 13 November 2002 at 7 p.m., a serious major assault took place at the entrance of the Bi-Lo Shopping Centre, Paralowie. The centre is situated off Port Wakefield Road at Bolivar. The victim was in a parked vehicle and the assailant was seen to possess illegal weapons, including a gun and a knife. The assault was witnessed by many people, including a number of children. Some of the people telephoned the police emergency 000 number and, after numerous attempts (over four to five minutes), eventual contact was made with the operator.

I have been advised that it took 15 minutes for the police to arrive. On arrival, many of the witnesses provided details to the police, including car registration numbers and descriptions of both the assailant and the victim. The police were told that the assailant was armed. I have been informed that the police were more interested in pursuing the details of the victim and his vehicle. My questions to the minister are:

1. Will he advise the council why delays are often experienced in making contact with the police emergency number?

2. Will he provide details of police response times and the delay in attending the scene of the crime?

3. Will he explain the reason why police seemed to show less interest in obtaining details of the assailant, who the witnesses considered to be a dangerous person in possession of a gun and other illegal weapons?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): They are serious questions and they deserve a response. I will refer them to the Minister for Police and bring back a reply as soon as possible.

PEDESTRIAN CROSSING, GRAND JUNCTION ROAD

The Hon. J.S.L. DAWKINS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Transport, a question about a pedestrian crossing at Grand Junction Road, Hope Valley.

Leave granted.

The Hon. J.S.L. DAWKINS: On 16 October this year I asked the minister whether he recognised the dangers posed by the lack of a pedestrian crossing in the vicinity of the Lutheran Homes Incorporated Retirement Village on Grand Junction Road, Hope Valley. The previous government allocated funding in the 2001-02 budget for the installation of a crossing, so I also asked the minister whether the government intended to honour the commitment to construct the crossing and, if so, when. I have yet to receive a response from the Minister for Transport, but the following day the minister responded in another place to a question on this matter from the member for Florey.

In his response, the minister indicated that the project would go ahead, but he said that both the Hope Valley Shopping Centre and the Lutheran Homes Retirement Village had committed to contributing to the construction of the crossing. It is my understanding that residents of the Lutheran Homes Incorporated Retirement Village were advised last Thursday (21 November) that the village might have to contribute $10 500 towards the project because it asked for it. This position contrasts sharply with the commitment of the previous government to provide all the funding for the crossing. My questions to the minister are:

1. Will he advise whether it is accurate that the Lutheran Homes Incorporated Retirement Village has been asked to contribute $10 500 towards the construction of the crossing?

2. Will he also indicate whether it is to become policy for his department to require a contribution from community members for road safety projects just because they—not the department—identify the safety concerns?

3. Why has the minister not yet responded to my question of 16 October, particularly considering that he provided a reply to the member for Florey on this subject in another place a day later?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the minister and bring back a reply.

PRISONERS, CHARITY DONATIONS

The Hon. J. GAZZOLA: I seek leave to make a brief explanation before asking the Minister for Correctional Services a question about prisoners' charity donations.

Leave granted.

The Hon. J. GAZZOLA: Recently, the media in Adelaide have carried items relating to the community at large making contributions to various charities to assist victims of the Bali bombing. I understand that inmates of South Australian prisons have also made contributions. Will the minister say whether such donations have been made and, if so, provide further details?

The Hon. T.G. ROBERTS (Minister for Correctional Services): It is good to have a good news story about correctional services and prisoners attached to a public service program. This is not the first: there was the testing of donated spectacles which were passed on to disadvantaged communities both here and overseas. Over the past few weeks since the bombings in Kuta, Bali on 12 October, thousands of dollars have been donated to charities running appeals to assist victims. There has been a unified outreach to victims and their families in this state. These donations have been recognised in other places, but it is often not recognised that prisoners also make contributions to charities from time to time as, in fact, do staff within prisons.

I am informed that prisoners at Yatla Labour Prison, the Adelaide Women's Prison and the Adelaide Pre-release Centre have donated approximately $550 to the Bali victims appeal organised by the Red Cross. This may not seem like a particularly large amount, but it has to be seen in context. What the honourable member—and, indeed, other members—may not realise is that prisoners in South Australia receive a daily allowance on weekdays ranging from about $2.50 to about $6. From this allowance prisoners purchase personal items with usually very little, if any, money left over.

So, it can be seen that in comparison with the whole of the community this has been a substantial donation by prisoners and quite a sacrifice. Prisoners like to brighten up their days by buying small items to break the boredom. So, I congratulate them for the sacrifice that they have made, and I hope everyone else will too.

MAGNESITE EXPLORATION

The Hon. M.J. ELLIOTT: I seek leave to make a brief explanation before asking the Minister for Agriculture, Food and Fisheries a question about magnesite exploration in the Southern Flinders Ranges.

Leave Granted.

The Hon. M.J. ELLIOTT: Magnesium International (SAMAG) has identified at least nine magnesite beds in the Skillogalee Dolomite near Beetaloo, which is adjacent to the company's proposed magnesium metal plant at Port Pirie. Apparently they see it as possible that these deposits could replace the magnesium deposits which they have been publicly saying that they are going to mine near Leigh Creek, the major reason for this relating to transport costs. I understand that the likely quality of the magnesite will be about the same.

The SAMAG project was originally determined to be feasible on the basis of mining operations running north-east of Leigh Creek and centring on Mount Hutton. SAMAG's own web site states that such an operation would 'prove highly competitive, placing them in the bottom quartile of global producers in cost terms, and with a resource that will serve them for at least 50 years and could last thousands of years'.

The state government has committed $25 million to an infrastructure assistance package for the SAMAG project. Conservationists have expressed concern that, while the government was deliberating over the funds for the project, SAMAG had not 'clearly and publicly indicated that it was contemplating mining any section of the Southern Flinders Ranges area'. A public meeting was held at Laura on 18 September 2002 to discuss the company's proposals. Residents were left with vague responses regarding the company's intentions in relation to, for instance, mining in Beetaloo Valley.

Company representatives said that there were no plans to mine near Beetaloo, despite the area being included in the mapping and sampling of deposits. Company descriptions of any eventual pit in the area would be a quarry approximately 200 metres wide by 45 metres deep by 450 metres long at any given time. The pit would then advance for a distance of 6 kilometres with approximately 30 semi-trailer loads of ore per day being shipped to the nearby Weeroona Island processing plant.

With South Australia's famous Heysen Trail crossing the interpreted magnesite crop eight times, a 6 kilometre quarry could seriously compromise the trail with a negative impact on tourism in the area. The interpreted magnesite outcrop also transverses Wirrabara Forest and could impact on the Beetaloo Reservoir catchment area. Most of the Southern Flinders Ranges, with the exception of the Telowie Conservation Park, is subject to joint proclamation, meaning that exploration and subsequent mining of these areas is possible, as can be seen by SAMAG's proposals. My questions to the minister are:

1. Was the government aware of SAMAG's shift of focus from deposits in Leigh Creek to those in the Southern Flinders Ranges when it committed $25 million in infrastructure assistance funding?

2. Why is SAMAG shifting its focus to the Southern Flinders Ranges when its own bankable feasibility study states that its operations in Leigh Creek would be profitable? (As I said, costs are in the bottom quartile internationally.)

3. Why will the government allow such a move, considering the objections of local residents and the potential negative impact on the environment and tourism?

4. Will the government amalgamate Telowie Gorge Conservation Park and Range Forest Reserve to give it complete protection by having it singly proclaimed?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): The honourable member has raised a number of questions. Like the previous government, this government has certainly supported the SAMAG project in Port Pirie: there has been bipartisan support for it, and I hope that all members of the council would hope that that project will proceed because of the significant economic and employment benefits that it would provide to Port Pirie.

In relation to the first question asked by the honourable member about the fact that SAMAG is now exploring—and I think that is all it is—closer to Port Pirie in relation to the lower Flinders Ranges, I do not think it would make much difference to the government's attitude towards support for the SAMAG project at the time regardless of where that company happened to be exploring. The point is that the company has, as the honourable member said in his question, access to deposits near the Leigh Creek coal fields. As the honourable member says, that would make the project viable.

In respect of the second question as to why the company is doing that, I cannot answer for the company, but I would suggest there is a pretty obvious reason, and that is that all mining processing is highly competitive. Costs are always coming down around the world, and, clearly, the operations in the mining and processing area that are at the cutting edge of technology and have the lowest cost will be those that survive. So, I imagine that it is not surprising that a company would look for resources that are closer to its operations, because that would reduce costs and, therefore, in the long term, make the operation more viable.

I think the honourable member is jumping the gun in relation to this. I have had some correspondence from people in the area who have raised concerns about it, but at this stage I point out that the company, as I understand it, is simply exploring and trying to determine whether, in fact, there are viable reserves in the area. Until that is complete and the company comes up with some proposal, I think it is jumping the gun to suggest that there would be some mining in the area. Quite clearly, before any mine could proceed, particularly in an area such as that—

The Hon. M.J. Elliott: Provide some leadership!

The Hon. P. HOLLOWAY: —there would be all sorts of hurdles to jump. The honourable member says we should provide some leadership. What does he want us to do? I am sure, if he had his way, there would be no mining exploration at all within this state.

The Hon. M.J. Elliott: There was no opposition to the Leigh Creek mine. You know that. There was no opposition at all, so don't be half smart.

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: As I explained in response to the second question, the obvious reason the company would be doing it is to keep the cost down. Whether this project goes ahead will depend, ultimately, on its cost structure and viability.

Unfortunately, being a magnesium producer, one of the disadvantages that the SAMAG project at Port Pirie will have will be the high cost of electricity, and I think we all know why that will be the case. Indeed, a while ago it was suggested that SAMAG would have to move its project to New Zealand because of the much lower cost of energy in that country.

Clearly, the company would be pretty smart to look at all its costs to ensure that it has a competitive advantage. I have not heard any suggestion yet that the company has been doing anything wrong in terms of exploration and trying to determine what resources are available in the area. When the exact location of those resources is known (if, in fact, resources are discovered), some form of detailed environmental impact statement will have to be undertaken. At this stage, it really is quite premature to be suggesting that we should be preventing the company from determining what is in the region. However, I will seek some further information in relation to the activities that this company is undertaking, and I will bring back a reply for the honourable member.

The Hon. M.J. Elliott interjecting:

The Hon. P. HOLLOWAY: The point is that we need to look at exactly where these resources are located. This state has great potential for mineral development to provide a sound economic base for this state via employment. It can be done in a way that has minimal impact on the environment, and that is what this government will be looking at. We will ensure that that balance between environmental interests and economic development is reached.

HOSPITALS, MODBURY

The Hon. A.L. EVANS: I seek leave to make a brief explanation before asking the Minister for Aboriginal Affairs and Reconciliation, representing the Minister for Health, a question about Modbury Hospital.

Leave granted.

The Hon. A.L. EVANS: Recently, I spoke to a member of the public who recounted to me a recent experience in Modbury Hospital. On 30 October, he attended the hospital, armed with a referral from his local GP, on the understanding that his admission had already been arranged. The note from his GP advised that he had a condition called myelofibrosis. This condition presents in the body during the early stages of leukaemia. It had left his body very vulnerable because his immune system was very low. He presented at the hospital with the symptoms of pneumonia, diarrhoea, fever, night sweats and an irregular heart beat.

Along with his medical notes, his GP had included the gentleman's X-ray, blood tests and a letter, which explained that, due to the patient's condition, urgent action needed to be taken to arrest pneumonia, otherwise he was in danger of major organ failure. Nothing was required of the staff, other than to admit him to the hospital. He told me that he arrived at the hospital at 2.30 p.m. He was not taken to a ward until 3.40 the following morning, which was some 13 hours later. During this time, he was made to wait on a hospital trolley in a cubicle in the emergency department behind drawn curtains. An hour after presenting at the hospital, he was put on a drip. No other medical treatment was given to him. He did not have a direct view of staff, and this situation made him feel anxious. He was given no reassurance as to when a bed might be ready.

A member of my staff spoke to him this morning and, interestingly enough, he went to the Royal Adelaide Hospital last night with the same symptoms. He said that the medical service that he received was excellent; that the staff worked quickly and diligently; and that within 2½ hours he had had X-rays, blood tests had been completed and he was able to leave the hospital with the necessary medication. My questions are:

1. Can she advise how long members of the public are expected to wait to be admitted to Modbury Hospital, particularly those who present for admission on referral from their local GP?

2. Can she provide the findings of the most current review of waiting times at Modbury Hospital for other types of admissions?

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I will refer those important questions to the Minister for Health and bring back a reply.

LEGISLATIVE COUNCIL, KNITTING

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the President a question about tapestry and knitting in the chamber.

Leave granted.

The Hon. DIANA LAIDLAW: First, I do declare an interest in this question because until mid this year I was proud to be patron of the Hand Knitters Guild of South Australia, for at least 10 years, and for at least 20 years I have been an enthusiastic knitter and worker of tapestry canvasses. It has been brought to my attention that at this time last week the New Zealand parliament was in uproar when the Associate Minister for Commerce, the Hon. Judith Tizard, insisted that she be allowed to continue to knit when listening to debate on the trademark bill that she had earlier introduced to the parliament. Knitting is one of the minister's very keen interests.

However, opposition MPs, in a series of points of order, accused minister Tizard of arrogance and contempt of parliament, arguing that standing orders allowed MPs to read newspapers and correspondence in the chamber but banned computers and devices. They argued knitting needles were a

device. Apparently the Assistant Speaker was a little floored by this debate and the points of order being made and the Hon. Ross Robertson immediately said he would seek guidance on the issue. Parliament apparently resumed under urgency the next day, last Friday, and MPs were told the ruling is that knitting is permitted in the house but not permitted from the minister's chair.

This drama in the New Zealand parliament reminded me of questions that I raised privately some 18 years ago with the then President of this chamber, the Hon. Arthur Whyte, regarding whether or not I would be allowed to knit or to work tapestries. I will not repeat what he said to me but, in addition to saying no, he did suggest that he regarded knitting and tapestry as trivial and he did not permit me to do so. I do highlight that members could talk, walk around—

The Hon. Caroline Schaefer: Do crosswords.

The Hon. DIANA LAIDLAW: —do crosswords, read a novel, but they were not allowed to knit or do tapestry, notwithstanding the fact that I suspect that, like most women, I would be able to do four or five things at a time, including listening to the debate: listening and learning as well as knitting.

As I understand standing orders in the Legislative Council, standing orders 161 to 165, regarding the conduct of members, make no recommendations on devices, correspondence or any other matter and that it is purely at the discretion of the President. Taking note of the President's ruling a couple of weeks ago allowing laptop computers to be used in this place under certain conditions, I ask the President the following question: would he be prepared to consider a ruling regarding tapestry or knitting as a permitted conduct in the Legislative Council, considering that the national NZ parliament last Friday permitted knitting—possibly even tapestry—in the house, for members, although it did not permit it from the minister's chair?

The PRESIDENT: The easy answer is that Arthur Whyte got it right. In anticipation that this matter may be raised, some research has been done. I can advise the council that Erskine May's *Parliamentary Practice* makes reference to members' conduct in that they must not read any book, newspaper or letter in their places, except in connection with the business of the day, nor should they conduct their correspondence in the chamber.

Over the years in this council, obviously successive chairs have allowed members to deviate from that practice, and I think probably rightly so. However, I say to the honourable member that we do require certain standards from our public gallery which follow the Westminster tradition. The House of Representative's practice states that admission to the galleries is a privilege extended by the house and people attending must conform with the established forms of behaviour. People visiting the house are presumed to do so to listen to the debates, and it is considered discourteous if they do not give their full attention to the proceedings. Thus visitors are required to be silent and to refrain from attempting to address the house, interjecting, applauding, conversing, reading, eating and so on.

In the past, it has been acknowledged that knitting is a forbidden activity within the gallery and that of the House of Assembly. Consequently, the honourable member should consider what may be seen as members setting standards for the public gallery which they themselves are not prepared to uphold. As a further aside, if we allow—

The Hon. Diana Laidlaw: You are saying no to me.

The PRESIDENT: Yes. If we allow one hobby to be undertaken in the chamber, before we know it the Hon. Mr Sneath will be trying to participate in his well-known home-brew activities—and some other members do have more peculiar habits. The answer to the question is: it will not be proceeded with.

FREEDOM OF INFORMATION

The Hon. A.J. REDFORD: I seek leave to make an explanation before asking the Minister for Agriculture, Food and Fisheries, representing the Treasurer, a question about open government.

Leave granted.

The Hon. A.J. REDFORD: In today's *Advertiser* it was demonstrated that in the area of open government the government's rhetoric is far different from reality in the article entitled 'Is this what the Labor government means by freedom of information?'. In the article, the Treasurer says:

> We have been in office for nine months and since the change of government there have been 45 FOI applications received in the Treasury department.

In other words, a little more than one a week. He further says:

> The department's FOI officer still has not processed 20 applications because the poor officer is working through them as quickly as he can.

I note that the editorial responded pithily by saying:

> Very well, minister, put a second official on the job and be far, far more sparing of the blue pencil.

Yesterday, the Treasurer in another place suggested that hundreds, if not thousands, of hours are being consumed by these applications. Given that his officers have processed only 25 out of 40 applications (or fewer than one application for every 10 days in the 260 odd days that this government has been in office), one wonders why each application should take nearly two weeks to process.

Today, I received a glimpse as to why these applications are being handled so slowly by the Treasurer and Treasury. In that respect, I point out that I have not had any similar response from any other department. In a response to an application for information on government cars, I was surprised at the number of vehicles in various agencies and, in particular, the fact that the Department of Treasury and Finance has some 631 motor vehicles. Before raising that issue publicly, I issued a further FOI to all agencies which had a substantial number of vehicles—and in that respect that was one to each of the 13 ministers—

The Hon. T.G. Roberts: Heine Becker has got them!

The Hon. A.J. REDFORD: Perhaps the absence of Heine Becker means that there has been an explosion in the number of motor vehicles, I do not know, but I am getting to the bottom of this: I am lean and nosy like a ferret, as I have explained before. Anyway, I received a response this morning on Department of Treasury and Finance letterhead which said:

> The act requires an agency to search for all of the documents that it holds at the time an FOI application is made. It does not require the Treasurer to actively seek documents from elsewhere which he would have to do so as to comply with your application.

This puts a bit of a lie to some of the comments that might have been made somewhere else about its being hands off. In any event, it goes on to say:

> Although he is minister responsible for them under their own legislation, he has no part to play in their FOI processes.

It then talks about the act contemplating that if a person wishes to obtain documents from more than one agency, he or she should apply to each agency. In that respect, I point out that I applied to all 13 ministers on this issue.

The Hon. Diana Laidlaw interjecting:

The Hon. A.J. REDFORD: They are rolling in. I am not criticising the other agencies. The only letter I have had of this sort is from the Treasurer's office, because his office seems to have some difficulty. It continues:

> I will not seek documents from the statutory authorities for which the Treasurer is responsible or from the Office of Economic Development for which he is responsible as Minister for Industry, Investment and Trade, for the two reasons set out above.

In other words, he claims that the act does not require him to do so, notwithstanding the provisions in section 16. The letter goes on to say:

> I decided not to do so because, in the circumstances, I considered that it would be more appropriate for you to send separate applications.

On some interpretation, if one were seeking a whole of government response in relation to government expenditure, one could send out some 145 applications for freedom of information and, based on this interpretation, still not cover the whole of the government. He also referred to the $350 limit involving applications by members of parliament and suggested that that might be applicable in certain cases. In light of that, my questions are:

1. How does the Treasurer or his FOI officers interpret the meaning of the term 'work generated involves fees and charges involving more than $350'? Does that include time spent in providing the sort of advice I received this morning in that letter?

2. Why is it that the Treasurer will not transfer applications to statutory authorities for which he is responsible and, in particular, the Office of Economic Development and his office of industry, investment and trade?

3. In what case does the act, in his view, contemplate a separate application to an agency and in what case will section 16, which requires an application to be forwarded on, be used? Does the Treasurer believe that the Office of Economic Development does not have a separate policy on motor vehicle use?

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): It ill behoves members of the opposition to suggest that this government is in some way delaying FOI applications. What the Treasurer revealed today is that, under this government, the Hon. Angus Redford and the Leader of the Opposition, in particular, have been deluging government agencies with FOI applications, and the reason for that is obvious. They know that this government is far more open than the previous government was and they are trying to run it up to the limit to try to get things across.

In his preamble, which was almost a speech, the honourable member referred to an article and the editorial in the *Advertiser* this morning. I have already made a statement to this chamber today—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order! The minister heard the question in silence.

The Hon. P. HOLLOWAY: —correcting that because the information that was sought by the opposition related to some commercial information in relation to a tender bid. Does the opposition really believe that, under the FOI Act, information that companies supply in relation to their tenders, including information about their processes, should be made available? If so, perhaps the honourable member should tell Business SA and the business people of this state, because, if that is going to happen, business in this state will just grind to a halt. There ought to be consensus, as there was when the FOI bill was debated, that certain information of that nature should not be disclosed.

When I became a minister in March this year, I recall that one of the first issues I had to deal with was some FOI applications that had been hanging around on the uranium industry for at least two years under the previous government. I did endeavour to ensure that that matter was resolved, because I was receiving correspondence from the people concerned seeking the release of that information. We have discovered that, to make this government more open and accountable, we have to amend some acts which, in due course, this government will do. I remind the council that, under current practices, the information with respect to freedom of information is provided under the act that was passed last year by the previous Liberal government with the support of the then opposition. So, if the act is deficient—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: —it is as a result of the act put forward by the previous government. The Hon. Angus Redford asked questions about interpretation, etc. I think that his second question was probably out of order because, effectively, he was seeking legal advice in relation to the act. However, I will have to look at the details of that question to see whether it does require a response. Again, I make the point that the editorial appearing in the *Advertiser* today was based, in my view, on incorrect information. As I pointed out in my ministerial statement, it was not a government report and it was not government information: it was commercial information provided by a company in response to a tender application about its processes.

If we have the situation where that sort of information is made available, no companies would bother to tender for any government work. The fault is not with the *Advertiser*, I believe, but with the opposition for misrepresenting, in its information yesterday, the information that was sought by government. It is quite obvious what the opposition is on about here: it is trying to choke the FOI process by submitting applications. This government is—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. P. HOLLOWAY: This government is—

The Hon. T.G. Cameron: I have never lodged an FOI application—never. I have never lodged one.

The Hon. P. HOLLOWAY: I do not care whether the Hon. Terry Cameron has lodged an application. I will get the statistics on the number of FOI applications that have been made since this government came to office, and we can make some comparison about what is going on. This government is the most open and accountable this state has had for years. As I said, when I got into government, FOI applications had been hanging around for two or three years, and the former government was refusing to address them.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Angus Redford!

The Hon. P. HOLLOWAY: As has been pointed out on numerous occasions, the former Liberal government passed the Freedom of Information Act. One reason the act was changed was to prevent the situation that occurred under the previous government where ministerial advisers (such as Alex Kennedy, who worked for the former premier, John

Olsen) were going through FOI documents. The act was changed to prevent the sort of abuse that we saw under previous Liberal governments. What happens now is that FOI applications are assessed by independent public servants. The act was changed to prevent the sort of abuses we experienced under the previous government. I will look at the honourable member's question and, as I said, if any further information can be provided, I will seek a response from the Treasurer.

REPLIES TO QUESTIONS

REGIONAL ARTS EVENT

In reply to **Hon. DIANA LAIDLAW** (12 November).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. When, on the recommendation of the organisations assessment panel, funding was not provided by the government to the Barossa Music Festival for 2002-03, the government, in partnership with Country Arts SA, undertook to explore options to support alternative regional arts events in South Australia. Mr Anthony Steel was engaged to develop a report which identified a small number of possible alternative events which might warrant government support.

2. Mr Steel's suggestions, along with options to secure the profile of a number of existing regional festivals, are now under consideration by Arts SA, in collaboration with Country Arts SA and the SA Tourism Commission. The decision to be made is whether to support one new event in one South Australian location, or whether to strengthen the arts programming of some of the outstanding regional events already on the calendar. Advice is to be provided once these deliberations are concluded.

3. With regard to the next Sounds Under the Southern Cross event, the board of trustees of Country Arts SA has decided, after considering the extensive resources needed for the 2002 event, as well as its outcomes, that consideration will not be given to holding this event again before 2004. Of course, in reaching its final decision, the board of trustees will need to take into consideration sponsorship support and project grants available through the SA Tourism Commission and Arts SA.

4. Due to a contribution of $80 000 having been allocated by the government to the Barossa Music Festival Inc. in the current financial year, to assist that organisation in resolving its financial position, only a limited amount of funding remains for 2002-03. Therefore it is proposed that consideration would be given to any new regional initiative commencing from 2003-04.

HER MAJESTY'S THEATRE

In reply to **Hon. DIANA LAIDLAW** (13 November).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

1. When the trust's land and buildings were valued as at 30 June 2002 by Mr Richard Wood, a certified practising valuer with Colliers Jardine (SA) Pty Ltd, a deprival value of $5 119 768 was placed on Her Majesty's Theatre.

2. Operating expenses for Her Majesty's Theatre were $85 376 for 2000-01 and $149 598 for 2001-02.

Income received was $115 362 for 2000-01 and $402 829 for 2001-02.

In making any comparisons between expenses and income for these two years, it should be noted that Her Majesty's Theatre was closed for much of 2000-01 while remedial works to meet the earthquake code were carried out.

MULTIPLE CHEMICAL SENSITIVITY

In reply to **Hon. A.L. EVANS** (22 October).

The Hon. T.G. ROBERTS: The Minister for Health has provided the following information:

1. The condition of Multiple Chemical Sensitivity (MCS) is recognised as a complex condition which appears to involve much more than increased sensitivity to chemicals in the environment. Currently, there is no medical or scientific consensus about MCS or what causes it. Due to its complexity, and the fact that there are not even clear diagnostic guidelines, it has been difficult for governments around Australia to develop policies around MCS. While it is true that the Department of Human Services is looking at the notion of developing a hospital policy for MCS patients, it is unaware of any such policies in Australia.

The individual needs of MCS sufferers are so different from one another that it is likely to be impractical to have a policy that covers all patients. Appropriate management may be best negotiated on a case-by-case basis, involving the patient's physician and the hospital.

Access to public housing by sufferers of MCS is approached by the South Australian Housing Trust on a needs basis. Prospective tenants with particular chemical sensitivities are given consideration regarding their expressed requirements. The Minister for Health is not aware of specific MCS policies concerning education and employment services.

2. Given the complexities involved in MCS and the difficulties associated with diagnoses of its causes, the Minister for Health is not in a position to develop uniform, whole of government policies around the issue.

It is unfortunate that many of the common chemicals in society—in the food we eat and the air we breathe—are a source of aggravation for MCS sufferers. There is little comfort in stating that self-management and chemical avoidance are currently the best options for minimising exposures. For individual sufferers who are employed, negotiation with their management and fellow staff concerning considerate use of perfumes, deodorants and hairsprays ought to be encouraged. However, it must be said that in the absence of outright bans on the numerous products we all use everyday, it is not possible for MCS sufferers to completely avoid chemical exposures, including in public buildings, services and transport.

SOUTH AUSTRALIAN FILM CORPORATION

In reply to **Hon. DIANA LAIDLAW** (13 November).

The Hon. P. HOLLOWAY: The Premier and Minister for the Arts has provided the following information:

The revolving loan fund has been set up as a cash flow loan facility. The loans provided to film production companies through this fund are repaid from guarantees applicable to the film project. Loans are provided on an interest-bearing basis, and with due regard to the credit worthiness of both the producer and the distributors providing the distribution guarantees. Administering the fund in this way means that the fund remains self-sustaining, with a cycle of cash out and returns in.

Reviewing the balance of the fund at any single point in time does not accurately reflect the amount of activity that it supports, because the time elapsed between the commitment of funds and a film's production start date, the amount of funds advanced, and the amount and timing of returns paid can all vary significantly from film to film and will impact on the fund's available cash balance.

Five projects applied to the revolving loan fund for support in the two year period from 2000-01 to 2001-02 and, as a result, a total of $1.65 million was committed from the fund. However, in the same period, $2.24 million was repaid to the fund, increasing the balance significantly.

The SA Film Corporation also administers a production investment fund of $1.6 million per annum, which is used to attract film production activity to the state. Generally, a production investment application is accompanied by an application for cash flow funding from the revolving loan fund. In 2001-02, film production investment by the SA Film Corporation attracted a direct spend of $16.7 million to SA which, using the ABS national multiplier of 3.05, translates into $51 million in economic benefit and 619 FTEs for the state.

The government considers these returns to be very impressive. The Economic Development Board obviously shares this view, because it has identified film as a strategic priority for South Australia.

The SA Film Corporation administers an allocation for the Government Film Fund of $200 000 per annum. However, it should be noted that the amount listed in the Auditor General's Report as 'Government Film Production Costs' refers to monies expended, not funds committed to production. This amount reflects monies paid to independent filmmakers working on government film production. The 2000-01 and the 2001-02 year end figures reflect both different levels of production activity (i.e., different numbers of films being produced) and the differing stages of production for these films at the end of the respective financial years (ie, a timing issue).

In 2000-01, 11 projects were at various stages of production (from commissioning through to completion), compared with nine in 2001-02.

Production payments are staggered and paid as key milestones in the production schedule (pre-production, production and post-production) are achieved. Funds committed in previous financial years may be included as 'production costs' if they have been carried forward to be paid in the financial year when the production milestones are met.

CONSTITUTION (MINISTERIAL OFFICES) AMENDMENT BILL

Adjourned debate on second reading (resumed on motion).

(Continued from page 1548.)

The Hon. J.F. STEFANI: I rise to speak against this bill and, in so doing, I will outline the reasons for taking this position. It is important to refer to the criticism that the then Labor opposition levelled against a Liberal government in 1997 when it introduced legislation to amend the Statutes Amendment Act to appoint five junior ministers and one parliamentary secretary. At that time, the Labor opposition was scathing of the Liberal government for increasing the number of ministers from 13 to 15, and for also adding the financial burden of a paid parliamentary secretary on to the shoulders of the taxpayers.

The fact is that this Labor government is now proposing to do exactly the same thing but, in addition, it has already burdened the taxpayers with the cost of two paid parliamentary secretaries. It is interesting to note how quickly the Labor government can change its position in relation to the use of taxpayers' money. We know that the office of all senior cabinet ministers will cost taxpayers an average of $1.5 million to $1.8 million per year. Under Labor, therefore, taxpayers will be carrying a bill for 13 ministers at a cost of at least $1.5 million each and, if Labor achieves the appointment of an additional minister, as provided by this legislation, taxpayers will be paying an extra $1.5 million per annum, plus the cost of an additional parliamentary secretary for the privilege of being governed by Labor.

Of course, Labor was forced into recognising the work of the Hon. Carmel Zollo, who had been overlooked by the Premier in preference to his former favourite electoral secretary who had been rewarded with the only available paid position of parliamentary secretary after the last election.

The Hon. T.G. Cameron: Who was that?

The Hon. J.F. STEFANI: Jennifer Rankine. The cost of parliamentary secretaries will add an extra $40 000 per annum, or more, to the bill shouldered by the long-suffering taxpayers, who will also be required to carry the additional superannuation increments accrued by the additional minister and the parliamentary secretary's position. Labor has been totally hypocritical about its commitment to be a more efficient government and to reduce expenditure, and therefore save money for the South Australian taxpayers. The fact is that the opposite is true. I would like to recount on the public record some of the criticism orchestrated by the then leader of the opposition (Hon. Mike Rann) and his deputy (Mr Kevin Foley), who were also assisted in the process by the then shadow attorney-general (Mr Michael Atkinson) and the member for Ross Smith (Mr Ralph Clarke).

In the House of Assembly on Tuesday 9 December 1997, the current Premier said:

> This is the first bill since the election which the government has presented to parliament on the issue of jobs but, instead of being about jobs for South Australians, it is about jobs for politicians.

The present Premier said that the deal for additional ministers was 'hatched behind the scenes a year or so ago'. The Hon. Mike Rann said, 'a bit of political payola.' He further said:

> It is a simple case of 30 pieces of silver. . . but apparently this government's ideological commitment to reducing red tape, to reducing the size of government, does not apply to its own members of parliament. The now Premier obviously has not learnt from an election result in which tens of thousands of decent South Australians on 11 October were crying out, 'What about us? What about our children's jobs? Not jobs, perks and privileges for members of parliament.' The government has tried to dress this up as a 'bold and innovative move'.

He also said that the appointment of 10 cabinet ministers, five ministers and one parliamentary secretary, instead of the traditional 13 cabinet ministers, would be at no additional cost to the taxpayers. In 1997 the Hon. Mike Rann said:

> These kiddie ministers each getting 42 per cent pay rises of $32 000 a year, and the hapless Julian Stefani as the parliamentary secretary will receive a 20 per cent pay rise.

In fact—

An honourable member: Did he say 'hopeless'?

The Hon. J.F. STEFANI: —hapless—if he had done his homework he would have realised that I never accepted that position and that I have never received any remuneration for the work that I did as the parliamentary secretary for four years. The Hon. Mike Rann went on to say:

> It is simply about a buy-off of support.

I wonder what he calls what he is doing with McEwen now? He continues:

> I would never suggest regarding honourable members opposite, in terms of their relationship with the Premier, that their vote could be bought, but it is quite clear that it can be rented, and that is what we are seeing here today.

I wonder whether we can relate that comment to what he has now done with the Hon. Mr McEwen, whether his vote was purchased, rented, leased or outsourced. It is interesting to compare his comments with the situation today. He goes on to say:

> This bill contains absolutely no detail about how many offices, extra staff, cars, perks or travel expenses will be applied, particularly in the case of Julian Stefani.

Some other interesting comments by the then leader of the opposition are as follows:

> To cantilever support by paying off people for their loyalty.

When referring to the oath taken by ministers, the Hon. Mike Rann said:

> It is an important oath that ministers take when they are sworn in at Government House by His Excellency. They take the oath of fidelity, which is the Executive Council oath and is about cabinet solidarity and about recognising the confidence of Executive Council. This means that, if you are given information about tax rises the following week, you do not go out and buy up petrol, sell shares or what have you. The fact is that we have a Premier who has no confidence in himself to lead. What he is having to do is go out there and buy support by offering positions to ensure that he continues as Premier.

I think we have a very interesting parallel. I wonder what we could say about the Hon. Mike Rann and what he has done with the Speaker and now with Mr McEwen in buying their support. This is a rather interesting scenario which we are all considering here today. He goes on to say:

> Quite frankly, how can the business community, how can the people of South Australia, how can investors interstate or overseas

have confidence in this government led by a Premier who does not have confidence in himself and who has to buy support.

I wonder whether that comment could easily fit into the present circumstances. It is interesting to compare these comments which the now Premier needs to face. These are his own words about the business community, investors and overseas confidence. He has, in fact, bought two people to achieve so-called stability for his government, a minority government that was elected in terms of the position that it now holds under false pretences. I will now quote some of the comments of the member for Hart, as follows:

> The one issue that I found to be the doozy of all silly announcements and policy decisions was this one to increase the ministry. If members think that good government is about making more ministers, they were not listening at the last election.

The Hon. R.I. Lucas: Who said this?

The Hon. J.F. STEFANI: The Hon. Kevin Foley, the Treasurer. It is rather interesting to compare the position now. He continues:

> It is a nonsense and a joke and, frankly, a disgraceful piece of public policy that you must reward or give jobs to members of parliament to shore up the numbers.

I wonder what people think about the current Labor government and the actions that it has taken to shore up its numbers on the floor of the house and buy off two conservative members with loads of money, white cars and all the perks. Mr Foley continues:

> There is a twofold reason: to shore up his leadership and to ensure that he can minimise the fallout from unpopular decisions and rope in his cabinet. There can be no other explanation.

These are prophetic words:

> It is about giving jobs to people whom he is rewarding for support; it is about giving jobs to people to ensure that they, where possible, do not scheme against him. I know one thing as well as any: 13 ministers in a cabinet is enough. It could be argued that it is more than enough, but in a small state, in an executive government, 13 government ministers is more than enough. Ministers opposite when appointed will require personal staff. Ministers opposite, as they should to do their job properly, will require a number of support staff. They will have access to white cars and it will grow in number and frequency.

Very prophetic comments by the now Treasurer. He now faces his own government doing these sorts of things. He continues:

> The nonsense of this legislation did not end with 15 ministers: for good measure we also threw in a parliamentary secretary. We gave a parliamentary secretary 20 per cent loading and for good measure we have thrown in an extra 10 per cent.

I do not know where that figure came from, but that is what he said. He went on:

> That is a nonsense, and a greater nonsense is that it may not stop with the Hon. Julian Stefani in another place.

These are prophetic words because, as we all know, this government has not stopped with just one parliamentary secretary, it went ahead and amended the legislation to provide for yet another. Mr Foley's predictions about not stopping there were true, but they relate to his own government. He continues:

> As I said before, 13 is ample and it can probably be reasonably argued that 13 is a couple of ministers too many, anyway.

This is what he said. What do we have now? We have a government which, instead of decreasing the numbers by two, as he suggested at that time, the numbers are being increased. It is interesting to recall the views expressed by the then shadow attorney-general and member for Spence whom I regard as a cordial and likeable person. He said:

> I cannot recall the government party during the recent election campaign canvassing an increase in the number of ministers from 13 to 15 plus a paid parliamentary secretary. This is not a change for which the government has an electoral mandate.

I wonder whether the Labor Party had an electoral mandate to buy off the Speaker and Mr McEwen and to appoint an extra parliamentary secretary. He continues:

> The election had unexpectedly left the Premier and his Liberal Party as a minority government.

That is another prophetic comment, because we know that the agreement which Mr McEwen and the Premier have signed acknowledges that the Labor government is a minority government. So, what has changed? I have to say that some of these comments are prophetic in their application now because the Labor government is doing exactly what it said it would not do.

The Hon. T.G. Cameron: They are hypocrites.

The Hon. J.F. STEFANI: Yes indeed. He continues:

> From a majority of 25 the government which the Premier led is down to a minority and is governing only with the consent of two independent Liberals and a National Party member.

So that is the position that the Labor government found itself in and, to escape the same rigours that the Liberal government had to operate under, it chose to buy votes: it chose to buy their support. Mr Atkinson goes on to say:

> This is why we should scrutinise, most jealously, an increase in the number of ministries and the creation of paid parliamentary secretary positions. An effective working parliament depends on it.
>
> Now we are introducing the new exception of paid parliamentary secretaries. We ought to be most careful. Parliament's traditional function is already sufficiently undermined by party government through the executive without introducing the means for the executive to buy off the party room.

I guess the Labor Party could not buy any more support from the party room so it looked outside. He went on:

> I expect Labor to revert to a 13 member cabinet or even fewer ministers with no parliamentary secretaries.

This is what Mr Atkinson, the now Attorney-General, said at the time. I wonder what his feelings are at this point in time. I wonder where he stands on that statement. I wonder what he would do if he could, in fact, have his own say and let his own conscience and his own preferred actions take place.

The Hon. T.G. Cameron: He might have been one of the members complaining about this deal!

The Hon. J.F. STEFANI: He might have been, and we will probably find out some day. In reading some of the comments made in the upper house in 1997 by the Hon. Carolyn Pickles (the then leader of the opposition in the Legislative Council), I note that she expressed concerns about the issue of 'cabinet confidentiality and solidarity now resting on a private agreement with the Premier'. I draw the attention of honourable members to that statement and I ask: is the agreement (the pact) that has been signed between the Premier and Mr McEwen, in fact, a private agreement between those two parties?

That is exactly what the Labor Premier Mike Rann has done today with the member for Mount Gambier. Premier Mike Rann has flouted the rigid convention of the Labor Party which dictates that caucus elects the ministers and that the leader has only the minor task of allocating portfolios. I wonder how many Labor caucus members voted for Mr Rory McEwen to become a de facto Labor Party minister. I wonder how many staunch Labor caucus members were prepared to throw away the rule book of the national Labor Party, which

is sovereign and the ultimate authority on the workings and conduct of the Labor Party, and dictates that:

> In all parliaments, the parliamentary leadership, the ministry and shadow ministry shall be elected by the parliamentary Labor Party.

I wonder whether the processes dictated by the Labor Party's rules have been followed in this instance.

Against this background of political hypocrisy and political double deals, the main critics of the 1997 Liberal Party bill—the Premier Mike Rann, his deputy and Treasurer Mr Kevin Foley, and Attorney-General Mr Michael Atkinson—now stand naked before us, stripped of any credibility and integrity in relation to their political ethics and duplicity. The Labor government has now introduced legislation to accommodate another political deal in order to shore up its support on the floor of the House of Assembly. The deal—which some Labor voters have described to me as a total compromise of Labor's principles and a disgraceful sell-out of the true Labor believers—has, in fact, set a new low level of standard of governance. It is a standard of Labor governance that relies on deals being made at any cost to achieve power and to occupy the Treasury benches. This is not about good standards of government.

But Labor does not care how it achieves its objectives. If necessary, it will sell its principles and integrity at any price and they will compromise the convention of the constitution and of the Westminster system of government, which can lead, as the shadow attorney-general warned in 1997, to a system of corrupt governance. Many South Australians have already asked me how many more deals the Labor government will do before the next election. Labor voters and Labor backbenchers—

The Hon. T.G. Cameron interjecting:

The Hon. J.F. STEFANI: Yes, indeed—Labor voters and Labor backbenchers and, for that matter, frontbenchers, are openly expressing their disgust and asking themselves the question: why have an election when you can do a deal—any deal at any price—that will deliver power to your party? Perhaps the next thing that the Labor government will do is introduce legislation which will allow taxpayers' money to be used in an indiscriminate manner to stitch up deals to govern the state. Perhaps it will suggest that the elections are a waste of time and money, because if you are able to hatch the best deal with a few Independents, using taxpayers' funds, you will be able to govern anyway. This is how the Labor government has behaved, and why so many people, including many members of the Labor Party, are expressing their concerns about the Rann Labor government. They say: what is the use of having any principles, when the Labor leaders of a minority Labor government are selling us out through the deals that compromise our strong beliefs and our loyalty to Labor?

The fact is that the member for Mount Gambier has also compromised his independence by doing a deal with the Labor government. He was seduced by the presumptuous use of the title of minister in an agreement that he signed, even though he cannot be a minister until the parliament has debated and approved the amendments to the Constitution Act to enable him to become a minister. What a cynical presumption. What an outrageous political stunt, which reveals an outlandish display of self-grandeur and personal ego.

The member for Mount Gambier may believe that he can convince some of the people in his electorate that he can best serve their interests by becoming a de facto Labor minister, but I am sure he will never convince the true Labor believers, and many other South Australians who strongly endorse the uncompromising principles of independence and ethics, that you can sell yourself or sell out the people of your electorate, and many others, for 30 pieces of silver—or, should I say, for an extra $74 100 one dollar gold coins per annum, plus the perks of a ministerial office and a chauffeur-driven limousine.

I know that many people whom I have mentioned and many others will judge the member for Mount Gambier and the Labor government with great disdain for the political deceit enshrined in the so-called agreement which, at best, can be described as a breach of constitutional conventions and, at worst, can be likened to the same political sell-off of the Molotov-Ribbentrop pact which resulted in the loss of independence of Lithuania, Latvia and Estonia and the people of those countries.

I will now examine some of the details of the Rann-McEwen pact which declares that this ministerial appointment is in the best interests of the people of the state. The Leader of the Opposition in this chamber has already covered some aspects of the pact but, if I repeat or go over some of the same ground in my contribution, I am sure that he will forgive me. Among other conditions and items of agreement, the Rann-McEwen pact provides the following:

- The Premier leads a minority Labor government, which came into office on 6 March 2002;
- Secure the position of the government on the floor of the House of Assembly;

What a cynical pact! They admit that they have a minority government and, to secure its future and its function, they go out and buy votes and support. What a cynical arrangement that is— using taxpayers' money! What a disgrace this Labor government is! How can they stand there and call themselves honest people? How can they face the electorate and call themselves the people who are there for the working class? What a disgrace! The agreement provides:

> The purpose of this agreement is to record the political understandings reached between the Premier and the minister as to how the minister can be a member of a Rann government whilst remaining an Independent member of the House of Assembly. The parties agree that the minister will have a special position in cabinet in that, by reason of his independence, there is a class of issue in respect of which it will not always be possible for the minister to be bound by cabinet decisions.
>
> The agreement reached between the parties is intended to reduce to a minimum any matters where the minister will not be able to agree to a decision of cabinet but acknowledges that, when such circumstances arise, the parties will seek to identify it as early as possible, and the minister will absent himself from cabinet discussions at the earliest time.
>
> The parties agree that they will each use their best endeavours to obtain the relevant approvals and amendments and that, in the event that such approvals and amendments are not obtained, they will enter into discussions to ascertain if any other agreement can be made.

This about doing deals in dark corners. This is about governing the state by making deals and by some process of obscure and underhanded compromise. The agreement continues:

> In performing his portfolio responsibility, the minister must give effect in order of priority to: any applicable laws—

and I am glad that it mentions laws—

> or directions, instructions or orders having legal effect; any decision of the Executive Council; any decision of cabinet; any policies agreed between the minister and the Premier, save, as specified in paragraph 2.7 of this agreement, any relevant policies announced by the Labor Party in the 2002 South Australian election or subsequently.

This is obviously a compromise that the member for Mount Gambier has made, because that agreement ties into Labor

Party policies. He is now a de facto member of the Labor Party. He is now a de facto Labor minister. No matter what he says, he cannot escape that label. He will be wearing it for a long time, and he certainly will be doing so as long as I am in this place. The agreement goes on:

> The minister must make every effort to provide the Premier with as much notice as possible when the minister is unwilling or unable to perform his ministerial responsibilities. It is understood that the minister may not have to comply with Labor Party policy in relation to significant matters affecting the business community, and the minister will be bound by the Ministerial Code of Conduct, except as provided for in this agreement.
>
> The minister will be provided with the same papers as every other minister. The minister will peruse those cabinet documents at the earliest opportunity.

Any business person or any person from overseas who picks up this document would realise that this is a hippy government, a government that is governing under these circumstances by doing a deal to achieve its purposes. What faith can you possibly place in a government that does this sort of thing? The agreement continues:

> If, after reading the cabinet document, in the opinion of the minister it would be inconsistent with the minister's independence—

listen to this, because it is really riveting stuff—

> for the minister to be bound by a cabinet decision in relation to an issue, the minister must immediately, upon reaching that opinion, inform the Premier of that fact, together with his reasons, and will meet with the Premier as soon as may be convenient—

in the back of the State Administration Building—

> in order to seek some accommodation between them in relation to the policy and/or procure a procedure to be followed.

As members of parliament, we are being asked to consider the appointment of a de facto Labor minister to operate under these conditions. This is how serious this government is about conduct. This is how pathetic this Labor government is about gaining support. This is how low this Labor government can descend—to the depths of absolute disgrace. The agreement states:

> The minister must make every effort to provide the Premier with as much notice as possible when the minister believes a matter for decision in cabinet will be inconsistent with the minister's' independence. The minister agrees that, in this agreement, the issues will be limited to:
>
> · issues with direct and immediate effect upon the minister's electorate.

So, as a minister of the Crown, he is being asked to act in a discriminatory manner, not for the benefit of all the state or the Crown but selectively for his own electorate. How on earth could anyone believe that a minister of the Crown could stoop to such a low standard, together with the Premier, to achieve this agreement? Can you imagine it?

An honourable member: Disgraceful!

The Hon. J.F. STEFANI: It is just a disgrace. The agreement continues:

> · significant matters affecting the business community.

Again, that is selective about the way that he will conduct himself and discharge his ministerial responsibilities. I have no qualms about this: a minister of the Crown should not be pro any group in the community. He has a responsibility to the Crown and to the interests of the people in a totally neutral manner. It is a disgrace that they have the audacity to introduce such a working arrangement in a signed agreement. This is the low pits of the Labor Party. It continues:

> · such other matters as the minister has advised the Premier from time to time in writing.
>
> If, after the meeting referred to in clause 3.3 of this agreement, no other accommodation can be reached. . .

In other words, no other deals can be done; no other backhanders; no 'another school in your electorate', or whatever. Then we have this position: he will immediately return the cabinet documents after he has read them all.

The Hon. A.J. Redford: Can he take photocopies?

The Hon. J.F. STEFANI: Who knows? He may have even photocopied them. The agreement continues:

> . . . immediately return to the cabinet office all copies of the cabinet documents and all notes or other records relating to the cabinet documents or copies; and
>
> · absent himself from that part of the cabinet discussion where the relevant matter will be or is being discussed.

This is an untenable position. The de facto Labor minister has become aware of all the facts in the cabinet documents that he has received. At that point, he is tied to convention. I have not been a cabinet minister, but I have enough commonsense and understanding of the law to know that that will not work, and anyone who tries to tell me otherwise had better try to tell someone else. The document goes on:

> Even where the minister has absented himself from cabinet in accordance with this clause, the minister agrees that he will not criticise, comment or disclose the relevant policy until the policy has been publicly announced by the government.

That flies in the face of convention, and I will come to that in a moment. However, this is an incestuous, illegal arrangement that cannot stand up. It continues:

> The Premier agrees that the minister, having complied with the arrangement in this agreement, is not subject to the usual rules of cabinet solidarity in respect of that particular matter. In particular, the minister, whilst remaining a member of the cabinet, may criticise the particular government policy in relation to which the minister absented himself from cabinet after the policy has been publicly announced.

I say to anyone who has been a cabinet minister and who is reading the conventions of the constitution that this is a totally untenable position. The minister will be a full member of cabinet with the same entitlements—that is, of course, the cars and the perks—and the right to take matters to cabinet, to discuss matters with cabinet and to vote on matters in cabinet, as can any other minister. If the de facto Labor minister thinks that he can convince 13 other ministers, he has another think coming, because the Labor machine will just roll over him like a steam cleaner. The minister will be subject to the usual rules of cabinet solidarity, so, on one hand, it is the usual rules and, on the other, he can opt out.

The minister agrees that he will not attend executive council meetings where there is, on the agenda, a matter upon which he has absented himself from cabinet in accordance with clause 3 of this agreement. When considering the specific conditions incorporated in the Rann/McEwen pact, I have great difficulty in reconciling the principles of selective ministerial representation by a minister of the Crown when discharging his responsibilities.

Clause 3.5 of the pact provides for the minister to limit his ability to take an independent position on issues other than issues that have a direct and immediate effect upon his electorate or matters that affect the business community, and such other matters as the minister has advised the Premier about. I find the notion that a minister of the Crown can selectively choose to discharge his ministerial responsibility totally unacceptable, because, in his position, as a minister of the Crown, he must always be willing and able to serve the interests of the Crown and, therefore, those of all South Australians, in a neutral, equitable and unfettered manner,

free of any encumbrances or conditions. He cannot choose to serve the interests of some people and not others.

I am equally greatly concerned that the de facto Labor minister can claim to be able to take an independent position having received all cabinet documents and having acquainted himself with confidential Labor cabinet policy which will bind him to secrecy and cabinet solidarity at all times, because of the clearly defined conventions of the Westminster system of government. I now refer to page 59 of the publication entitled *The Constitution of South Australia*, published by Mr Brad Selway QC, a former crown solicitor and now a judge in the Federal Court, and highlight his views, which are expressed under the heading of 'Responsible Government', as follows:

> Ministers are bound by decisions of cabinet. Ministers cannot publicly question or attack a cabinet decision. In effect, ministers vote as a bloc in parliament.

I was also interested to read a publication by Mr Geoffrey Marshall entitled *Constitutional Conventions—the Rules and Forms of Political Accountability*. The publication addresses the issue of collective responsibility principles, namely, the unanimity or solidarity of cabinet and the doctrine of collective responsibility. The publication explores the notion, dealing with the internal differences which may occur at cabinet level and which may affect a minister during the course of his duties. It also declares that there was overwhelming evidence that the doctrine of collective responsibility was an established feature of the English form of government. Marshall says:

> For a cabinet minister to disclose his own views would enable experienced observers to identify the views of others and to identify ministers who voted one way or the other, and would undermine the whole doctrine of joint responsibility.

Clearly, even if the conditions of the Rann/McEwen pact provide Mr McEwen with the opportunity to criticise a particular government policy after a public announcement has been made by the government, this would give rise to the situation described above.

The Hon. A.J. Redford interjecting:

The Hon. J.F. STEFANI: That's right. In reality, the member for Mount Gambier cannot be a selective minister of the Crown when it suits him. Having taken the oath of fidelity, Mr McEwen is not able to choose when he wants to be a minister of the Crown or when he wants to be an independent de facto minister. He cannot be half a minister, just as one cannot be half pregnant.

He is not able to choose between his responsibilities as a minister of the Crown and discriminate in the way in which he is required to discharge his duties as provided in the pact. Essentially, he will be bound by the constitutional conventions, and during the next election campaign in his electorate he will be required to support the Labor Party's policy because he has lost his independence and has become a de facto member of the Labor Party, which has promised him a continuing position as a de facto Labor minister, should Labor be returned to the Treasury benches after the next election. Unfortunately for him, he has lost all credibility as an independent member of parliament, a position to which he was elected by a majority of voters in the Mount Gambier electorate in February this year and after he publicly promised in the *Border Watch* of 5 February 2002:

> 'It will be no different from last time', Mr McEwen said. 'If you are elected as an independent you must remain an independent'.

I oppose the bill.

The Hon. A.J. REDFORD: Mr President, I draw your attention to the state of the council.

A quorum having been formed:

The Hon. T.G. CAMERON: I had not intended to speak on this bill. One would have thought that anybody could have looked at this and seen that it was a self-serving, cynical and hypocritical act by the government. The technical aspects of this bill have been more than adequately dealt with by the the Hon. Angus Redford in his rather lengthy contribution on this matter. I congratulate the Hon. Angus Redford on the technical aspects of his speech. It was somewhat of a learning experience to sit here and be taken through not once, not twice, but three times what the Hon. Angus Redford's problems with this bill are. In terms of all the contributions that I have read on this and in terms of a technical analysis of the hypocrisy and two-faced nature of this grubby little deal, I think that the Hon. Angus Redford covered it. I look forward to his joining the Hon. Julian Stefani and me when we record our displeasure at this—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I do not have any intention of depriving the honourable member of the committee stage. To be fair to the Hon. Angus Redford, he made a very powerful, emotional speech. When one sitting on this side of the chamber looked across and saw all his—I cannot call them comrades, can I?

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Yes, I can. When I saw all his comrades nodding, agreeing, smiling, seconding and hear hearing, I thought, heaven forbid, it does not look as though it will be only Julian and I opposing this bill; it looks as though the Liberal Party will demonstrate a bit of guts and courage and it, too, will oppose this deal. However, it would appear that the opposition to it will be only verbal and it will not be translated into actual opposition, which is a bit of a pity. Quite simply, this bill is introduced for one reason and one reason only. It has nothing to do with what is good for South Australia or delivering better government to the people of South Australia: it is all about the self-preservation of the Rann government. One would have thought that, considering the previous deal it had done to put Peter Lewis in as Speaker, the government would feel pretty safe. However, since that deal was done, one can only presume that the Australian Labor Party, particularly its leadership, has become more concerned about the relationship that it has with the Hon. Peter Lewis, and it has sought to ensure that it has a fall back position just in case that agreement happens to go astray as well.

As a constitutional amendment, this bill requires an absolute majority of members of both houses to pass; that is, 24 members in the lower house and 12 members in this chamber. As I listened to the rather fulsome oratory of the Hon. Angus Redford, I felt somewhat fortified that 12 people would oppose this grubby political deal. However, that remains to be seen. The bill amends the constitution to provide that all ministers are ex officio Executive Council members. There is no need for me to say anything more about that. I will not bore members; I will just refer them to—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: The Hon. Angus Redford interjects too early: I was just about to advise members of the council that, in relation to the duplicitous nature of the way in which this bill will amend the Constitution to provide that

all ministers are ex officio Executive Council members, he has already adequately explored that and I would not want to get picked up by the President for repetition by going over the ground that the Hon. Angus Redford has already covered. I know that this matter has already been adequately covered, but technically there is nothing to prohibit the member for McKillop being appointed a minister now—

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Sorry, Rory McEwen; I said the wrong seat—

The Hon. T.G. Roberts interjecting:

The Hon. T.G. CAMERON: Yes, if he only played his cards properly, he would not be languishing on the backbench now: he could be running around in a white car within a matter of days. However, if there are more than 13 ministers, only 10 will be appointed Executive Council members and the other four or five will be junior members and will be paid accordingly. One wonders why the Rann government did not look at that option. Heaven forbid—

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: The Hon. Angus Redford interjects and says, 'They are all champion ministers'.

The Hon. A.J. Redford: I don't think they are all champion ministers.

The Hon. T.G. CAMERON: I misunderstood the honourable member. Ministers always think that they are champions, and it does not matter where they come from—

The Hon. A.J. Redford: Their leader says that they are all champions.

The Hon. T.G. CAMERON: That is how stupid the leader is. It is quite clear to anyone—

The PRESIDENT: Order! The Hon. Terry Cameron will withdraw that remark.

The Hon. T.G. CAMERON: That is how misinformed and nonsensical the leader is: to suggest that the current ministers are champions is to deny reality. We are not one year into this government and there are already three or four passengers who, if I was the leader, I would be replacing. One minister, in particular, is already hobbling around on one leg and, if she is not careful, Dean Brown will have to offer her a crutch so that she can get around the house—that is how well his team of champions is going. As every member in this chamber would know, I am not on record as being a fan of the Hon. Dean Brown, but I must compliment him on the way in which he has gone about conducting his business as shadow minister for health. He has already won that contest on a technical knockout, and it is about time they carried the minister out of the ring.

However, be that as it may, one wonders what discussion the cabinet had about this. I wonder how many members of the cabinet were volunteering or raising this subject: 'Look we are only allowed 13 ministers; we will have to change the Constitution'. There would be no prizes for guessing whether anyone in the ministry put up their hands and said, 'Hang on a minute, why don't we do this the proper way? We do not have to change the Constitution to put this grubby little deal through. Why do we not opt for a system where there will be 10 appointed Executive Council members and the other four or five will be junior ministers who will be paid accordingly?'

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: So, they still get the same pay. It only further underscores the fact that this is a grubby political deal. I suspected that something such as this was on the go when Rory McEwen got his little deal in respect of the Mount Gambier Cup yet the government denied the same privilege to the people of Port Lincoln. I do not have any problems at all with Rory McEwen. He is a bit of a boofhead at times and he thinks that—

The PRESIDENT: Order! I do not want to keep stopping the Hon. Mr Cameron.

The Hon. T.G. CAMERON: It is quite an education, as I am beginning to find out what words I can and cannot use. I am not allowed to call anyone a 'boofhead'.

The PRESIDENT: The honourable member should refrain from using objectionable or offensive words towards any member of this parliament or the Governor. I ask him to confine his remarks to the bill and not to make personal reflections upon members of either house of parliament.

The Hon. T.G. CAMERON: As I said, if I can interpret what you are saying, Mr President, I do not have any problem with Rory McEwen, except that he seems to think that he is an expert on everything. If he is, then he will be a welcome addition to the Labor cabinet because expertise is something that it desperately needs. My experience with people who think that they are experts on everything is that they usually end up being experts on nothing and generalists on everything, and that is probably the description that applies to Mr Rory McEwen.

I support the contribution by the Hon. Julian Stefani and I congratulate him on his canvassing of this issue. If there were two words that constantly came up in the honourable member's contribution, they were 'cynical' and 'hypocritical', describing the deal entered into by the leadership of the Labor Party and to which the Hon. Mr Stefani has voiced his opposition. I can only concur with him. If a vote were taken on whether this was a cynical, grubby, political deal, everyone in this chamber, except the six Labor members, would probably agree with it. However, politics is politics and, without canvassing the reasons, I can understand why the Liberal Party is prepared to allow this bill to go ahead.

The Hon. Julian Stefani referred to the fact that this bill will extend cabinet to 14 but, by allowing this deal, we are providing for 15 ministers to be appointed as Executive Council members. That begs the question as to why the government has sought to increase it to 15, not 14. I understand from scuttlebutt around Parliament House that Bob Such knocked the Labor Party back on a number of occasions on offers to become a minister. If it has appointed Peter Lewis as Speaker, Rory McEwen as a minister and Bob Such has knocked it back, that leaves only one likely candidate. One has to be suspicious, and I would be hopeful that—

The Hon. T.G. Roberts: Mark Brindal is not coming over.

The Hon. R.I. Lucas: And Chris Hanna is not getting an offer.

The Hon. T.G. CAMERON: Your turn. Can you top that?

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I have forgotten where I was after those interjections. I would be hopeful that the leader of the council, the Hon. Paul Holloway, in his reply would make it quite clear that the government has no intention of appointing Karlene Maywald as a 15th minister.

The Hon. R.I. Lucas: They don't break their promises! If he says so, they will not break their promises.

The Hon. T.G. CAMERON: I have known the Hon. Paul Holloway for a number of years. If he stands up and says, 'The government has no intention of doing this. I give the council an assurance that that is not what we intend and that

will not happen during the course of this government,' then I would accept that from him.

The Hon. Caroline Schaefer: That he knows it.

The Hon. T.G. CAMERON: He is an honourable person and I would accept that from him, but I do not believe that I am going to get that assurance from him, because he is a man of honour and, if he made that statement here in the council when Rann concocts his next grubby little deal—

The PRESIDENT: Order! The Hon. Mr Rann is the term you should use.

The Hon. R.I. Lucas: When the Hon. Mr Rann concocts his grubby deal.

The Hon. T.G. CAMERON: What did I call him?

The Hon. R.I. Lucas: Just Rann. You have to say 'honourable'.

The Hon. T.G. CAMERON: I could think of other things. The Hon. Mike Rann.

The PRESIDENT: Order! The honourable member will take direction from the chair or I will have to sit him down.

The Hon. T.G. CAMERON: Well, I am taking your direction.

The PRESIDENT: On two or three occasions you took interjections from members on my left, who will remain silent, which you should not do.

The Hon. T.G. CAMERON: I did not take any interjections from the honourable members on your left.

The PRESIDENT: Confine your remarks to the bill, please.

The Hon. T.G. CAMERON: I do not have a problem being pinged provided I am guilty, all right? But I did not acknowledge their interjections. If I may, I will continue. Go back and check *Hansard*.

The PRESIDENT: I think *Hansard* will prove me right, but I ask you to continue your remarks on the bill.

The Hon. T.G. CAMERON: I will have a bottle of red with you. I will bet you a bottle of red later—

The PRESIDENT: Order!

The Hon. T.G. CAMERON: —for lunch tomorrow, that I did not acknowledge the interjections.

The PRESIDENT: Order! The honourable member will address the bill or I will sit him down. It cannot be much clearer than that.

The Hon. T.G. CAMERON: That is not a problem.

The PRESIDENT: Order! Address the bill.

The Hon. T.G. CAMERON: I am trying to get on with the bill if you will let me. This was going to be a short speech, but I may go on for a while now, probably until I get sat down. This was going to be about four minutes. I would now like to address the question of cost.

The Hon. R.I. Lucas: In some detail.

The Hon. T.G. CAMERON: In some detail. I have two lines down here but I am sure I can stretch this out. The information that I have been given, Mr President (and I am addressing the bill), is that it will cost at least half a million dollars for the appointment, that is, just for stuff like reordering stationery, hiring of staff, offices, restructuring and administrative costs.

The Hon. J.F. Stefani: Phones.

The Hon. T.G. CAMERON: Phones, telexes, faxes, stamps, which are usually doled out to union secretaries. That does not take into account the fact that, to run a ministerial office, it could cost anywhere in the vicinity of $2 million to $3 million per year, particularly when one looks at the ministerial appointments that have been made by some of the ministers. I would have thought that someone from the opposition would have had a more careful look at not only the number of appointments but who is being appointed and from where. Each minister's office looks like a who's who from their own faction. I do not want to stray from the bill. Let me get back to it. Here we have a government which, during—

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order, the Hon. Mr Redford!

The Hon. T.G. CAMERON: I am not allowed to recognise your interjections.

The PRESIDENT: Order!

The Hon. T.G. CAMERON: Please stop interjecting or you will get me into trouble. I am sorry, but I will have to ignore you from now on. Getting back to cost. During the election campaign, we heard a great deal from this government about how the priorities were going to be health and education. It would have got that straight from its research. Most ALP campaigns are opinion poll driven, and I know that because I have run a few. The issues were health and education, and I can recall at one stage words to the effect that it is not dissimilar to the Bill Clinton campaign when he put a sign across his desk which said, 'It's the economy, stupid.' The thrust of the ALP's campaign was, 'We are going to put more money into health and education: they are going to be our priorities.'

I wonder whether the hundreds of people sitting in queues waiting for public surgery, who have seen very little change in those lists, would agree with the government that it has got its priorities right and it is keeping its election promises that its priorities would be health and education, when it is prepared to spend millions of dollars on nothing other than a grubby little political exercise designed to shore up its control and power in the House of Assembly, simply because it does not trust Peter Lewis. That is what it is all about. It has been trying to put this deal together with Bob Such, Rory McEwen and Karlene Maywald ever since it put the grubby little deal together with Peter Lewis. They reached a point where it was becoming concerned, even a little bit frightened, that at some stage it would have to step away or walk away from the Hon. Peter Lewis, so this is its fall back plan. What justification is there in terms of this plan in relation to the electorate? Was it something it talked about during the last election?

The Hon. J.F. Stefani: No

The Hon. T.G. CAMERON: No; it was not mentioned. In fact, we heard lots of talk about public accountability, public honesty in office and that this was going to be the most honest and transparent government we have ever seen in this state. We are not even a year into its term and this government's hypocrisy has already been exposed not only in relation to this bill but also in relation to the freedom of information bill, and a range of other matters that relate to transparency and open government. The government is throwing around these rhetorical phrases and cliches like confetti at a wedding.

If the Premier and his staff are not very careful about some of these journalist-type cliches that we now see emanating from the Premier's office they will run the risk of developing the little boy who cried wolf syndrome. They continue to trot out the rhetoric but their actions are not matching the rhetoric. If we need any more clear example of that we need look only at the arrant hypocrisy in relation to the freedom of information bill. The government wants to deny MPs the right to make FOI applications unless they pay for them and it wants to extend the secrecy list from 30 to 80 years.

I think that the Americans go only to 75 years, but this government wants to extend it to 80 years. Under what disguise? Under the disguise of, 'Oh, well, look at the Salisbury affair.' Is it not a good thing that that matter has finally been announced and put to rest? The world still continued to function the next day. I agree with the Hon. Michael Atkinson that that should have been done. It has been put to rest and the world can move on. If we are going to talk about transparency and accountability, heaven forbid, one can look only at the Freedom of Information Act to see what the government is doing.

The Hon. A.J. Redford: Which minister would you have dumped?

The Hon. T.G. CAMERON: I think that the honourable member can pick that up from my speech.

The Hon. A.J. Redford: Any others?

The Hon. T.G. CAMERON: As I said, there were three or four who—

The Hon. A.J. Redford: You only got to one.

The Hon. T.G. CAMERON: The honourable member will get me into trouble again for recognising interjections and for straying from the subject. Another aspect that I think should be examined in relation to this bill is that not only was there strong opposition to it from a range of quarters but also from within the Labor Party itself. Cynics might suggest that they are only aspiring ministers—

The Hon. R.I. Lucas: Kris Hanna?

The Hon. T.G. CAMERON: —who were angry—

The Hon. R.I. Lucas: John Rau?

The Hon. T.G. CAMERON: There was a range of them.

The Hon. R.I. Lucas: Caica?

The Hon. J.F. Stefani: Jay Weatherill?

The Hon. T.G. CAMERON: Keep going, you have got them all so far. You are correct so far. I cannot acknowledge members' interjections; but if I keep acknowledging them they will get it on the record. You have it pretty right so far. You have missed out three or four.

The Hon. R.I. Lucas: Gay Thompson?

The Hon. T.G. CAMERON: Yes, yes. You have only two to go. The Leader was always pretty good on this factional stuff.

The ACTING PRESIDENT (Hon. R.K. Sneath): Order! Carry on.

The Hon. T.G. CAMERON: I thought that Mr Acting President was calling me to order.

The Hon. R.I. Lucas: No, he was calling me to order.

The Hon. T.G. CAMERON: The Acting President was picking up those interjecting Liberals who always give me a hard time when I get to my feet. Thank you, Mr Acting President, I need your protection, particularly from the Hon. Robert Lucas and the Hon. Angus Redford. Your protection from their incessant interjections agreeing with me would be appreciated! I wanted to get back to the discord that was apparent in the Labor Party about this measure. Quite clearly this deal was not cooked up and concocted by the entire leadership cabal because, quite obviously, one of the leaders was not in on the little deal, but I might say more about that—

The Hon. R.I. Lucas: One of the leaders was overseas.

The Hon. T.G. CAMERON: One of the leaders was overseas. One of the leaders was brought into it only at the eleventh hour after the deal was concocted—

Members interjecting:

The ACTING PRESIDENT: Order!

The Hon. T.G. CAMERON: —not by someone who is desperate to become leader of the Labor Party but by someone who is desperate to become deputy leader. This was an opportunity, perhaps, to strike. I thought that they might have learnt a lesson from the Liberal Party's exercises in all of this, but it was more about someone becoming deputy premier rather than Foley's becoming premier. I am sure that the Labor Party will work that all out in due course. What surprised me about this deal was that it does draw some parallels with the agreement that was entered into by the former Bannon Labor government in 1993 when it discovered that it was in a minority government and then had to enter into arrangements with Terry Groom and Martyn Evans. However, I can assure the council that those arrangements that were entered into back in those days conformed to the party's rules.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: Yes, that, too. However, the current deal that is being undertaken by the Labor Party, in my opinion, is contrary to the federal rules and constitution of the Australian Labor Party. We have only the Hon. Paul Holloway and the Hon. Carmel Zollo in the chamber today and I do not think that either of them have attended a meeting of the National Executive of the Australian Labor Party. I attended meetings of that body for some 12 years, and let me remind members that the Australian Labor Party's constitution and rules run paramount to the state's rules, and that has been quite clearly established by a number of legal decisions, including the High Court of Australia. I cannot quite recall the National Executive's intervention rule—7(1)(c), I think it might be.

The Hon. A.J. Redford: It tears up the Ministerial Code of Conduct and the ALP rules!

The Hon. T.G. CAMERON: Not only does it contradict the Ministerial Code of Conduct but, in my opinion, it is actually a breach of the national constitution, and I will read it to the honourable member. The rule states:

> In all parliaments the parliamentary leadership, the ministry and shadow ministry shall be elected by the parliamentary Labor Party.

How can caucus conduct an election for someone who is not a member of it? The National Executive has the rule to stop state government's from running off and entering into the grubby little deals and exercises that has happened on this occasion.

The Hon. R.I. Lucas: Kris Hanna is looking at that legal aspect.

The ACTING PRESIDENT: Order! Interjections are out of order.

The Hon. T.G. CAMERON: I will not respond to the previous speaker's interjection, but I was speaking to Kris Hanna from the lower house earlier this afternoon. There is no way that I would ever breach a confidence.

The Hon. Diana Laidlaw interjecting:

The ACTING PRESIDENT: Order!

The Hon. T.G. CAMERON: I have a great deal of respect for Kris Hanna. I think the comment I made to him was: 'It's good to see that there are still some traditional Labor Party members of parliament flying the flag, Kris; keep up the good work.'

The Hon. Diana Laidlaw: Is he one of those Labor lawyers who are writing about the Attorney?

The Hon. T.G. CAMERON: I would doubt that very much. I don't know who those defence lawyers are. I will not go into that because I might be called to order again, and I

would not want that to happen. Clearly, the agreement that has been entered into, in my opinion, is ultra vires the federal rules and constitution of the Australian Labor Party. In my opinion, if any member was to refer the matter to the state executive in the first instance it would be dismissed as frivolous.

The Hon. A.J. Redford interjecting:

The Hon. T.G. CAMERON: I would doubt it. Dean Jaensch had something to say in the *Advertiser* today. I think everyone in this place respects the fact that the professor has been around for a long while and that, whilst we do not always agree with him, his comments are always pertinent.

The Hon. J.F. Stefani: He's on the ball.

The Hon. T.G. CAMERON: Yes. His comments are always pertinent. In the *Advertiser* today he said:

> It would be interesting if the national executive met in solemn conclave and decided to intervene to ensure this rule was followed.

The Hon. A.J. Redford interjecting:

The PRESIDENT: Order!

The Hon. T.G. CAMERON: I have no doubt that the national executive of the Labor Party will not meet in secret or in solemn conclave to decide whether it will intervene. It would be a very interesting exercise for the national executive of the Labor Party to deal with it if someone under the rules of the Constitution who had the power to do so listed that matter on the agenda of the national executive, because my experience with the national executive of the Labor Party is that it always upholds its own rules and constitution.

Clearly it is against the rules of the Labor Party, particularly the Federal Labor Party. When this grubby little deal was put together, in no way was it endorsed, voted upon or approved by caucus. Hence, the dissent amongst a significant number of members of the Labor caucus when they became aware that this deal was being negotiated on their behalf in secret by their leadership, that the conditions, etc. were being entered into without their knowledge. In fact, it would be fair to say that, by the time they even heard about it, it was already a fait accompli.

Quite clearly, the ministerial agreement that is being entered into between the government and Rory McEwen is not predicated or founded upon any noble principle. It is not even founded on any noble ideal or an intent to improve the running of the ministry or because they believe this will assist in providing better government of this state. What this is about is shoring up the Labor government. It was becoming clearer as time went by that the compact that they had with the Speaker was becoming more and more frayed around the edges.

Despite their best attempts to seduce the Hon. Bob Such into their ranks, he had enough principle and honour not to accept this grubby, dirty little deal, which is not only two-faced but is founded upon hypocrisy. Not only will it be a significant additional cost to the people of South Australia but once again, despite some of the noble speeches that were made earlier today about restoring the public's faith in politicians and the political process, all that this grubby little deal can do is increase people's cynicism and their doubt about the integrity and honesty of politicians and the political process.

I condemn this bill. I indicate that I will vote against it and that I will call for a division if necessary. I invite all other members of this council who have the courage to do so to join with me in that division and to indicate their opposition to this hypocritical deal.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I thank members for their contribution to this debate and those who have indicated their general support for the measure. At its heart, the measure is designed to bring stability and security to government in South Australia. As the Premier said when he announced the proposed expansion of the ministry, the move to invite the member for Mount Gambier into the cabinet not only provides greater security but also strengthens our government. The Premier also said that the member for Mount Gambier is not becoming a Labor MP; he is becoming a cabinet minister in our government—a very clear distinction. The Premier also said that he will bring the regions of the country directly to our cabinet table. Our cabinet is one that includes not excludes, invites not impedes, a government for all South Australians, bigger than party, and a government that puts state ahead of party.

The need for the amendment before the council is simple. The appointment of another minister would bring the total number of ministers to 14. Under the existing provisions of the Constitution Act there is a limit on the number of ministers. Section 65(1) provides:

> The number of ministers of the Crown shall not exceed 15.

The government will respect this limit, which was established by the Olsen government in December 1997. It was the Olsen government that changed the maximum number of ministers from 13 to 15 and created the system of junior and senior ministers. Under this government's proposal, the total number of ministers available under the act will remain the same as it was under the Olsen and Kerin governments. The current act also limits the number of executive councillors. These limits are found in section 66(2), which provides:

> Every minister of the Crown is, ex officio, a member of the Executive Council unless an appointment is made taking the number of ministers to more than 13, in which case, while the number of ministers exceeds 13, the Executive Council will consist of not more than 10 ministers of the Crown appointed to the Executive Council by the Governor.

This provision means that, when any government in this state wants 14 or 15 ministers, 10 of them must be chosen by the Premier to be separately appointed by the Governor to the office of executive councillor. This was the situation under the former government when there was effectively an inner and an outer cabinet in South Australia. Under the previous government, certain ministers who were appointed as delegate ministers were invited to cabinet only on specific occasions and they were not members of Executive Council. This government has rejected that approach.

A quirk of the drafting that created the potential for an inner and an outer cabinet means that for the moment there are 14 ministers. There will also be no members of Executive Council until the Governor appoints them. So, under the existing law when a 14th minister is appointed the Premier, as Leader of the Government, must advise the Governor on the appointment of a more select group or an inner cabinet to make up the chief advisers of Her Excellency the Governor as members of Executive Council. The government believes that all ministers should be full and equal members of cabinet, without distinction, and that they should all be executive councillors. This is the simple reason for the required amendment to the Constitution Act currently before the council.

The current provisions of the act also created unintended and unnecessary difficulties when the number of ministers unexpectedly dipped to 13. This happened at the end of last

year when the then minister for tourism and the then premier both resigned and the number of ministers, including delegate ministers, unexpectedly dropped to 13. Because of the wording of section 66(2), when the then premier resigned, the remaining 13 ministers, including the three outer or delegate ministers, all automatically became members of Executive Council and had to be hastily sworn in as advisers to Her Excellency. There is no point in continuing to entrench such absurd anomalies in the Constitution Act.

Members opposite have queried why the government needs more than 13 ministers. The number of ministers chosen by the government is entirely consistent with the numbers interstate and in the commonwealth. In the commonwealth government there are 29 ministers, in Victoria 19 ministers, in Queensland 19 ministers, in New South Wales 18 ministers, in Western Australia 14 ministers, in South Australia there will be 14 ministers under this proposed amendment, in Tasmania 10 ministers, in the Northern Territory 8 ministers and in the ACT 4 ministers. These numbers reflect the relative size of the populations of each of these jurisdictions and the demands placed on individual ministers in those jurisdictions to meet the needs of their communities. South Australia is clearly not out of step with other Australian jurisdictions.

Many informed commentators believe that we have too few ministers. For example, the shadow minister for employment and training said:

> Executive government's role is to oversee the work of the Public Service and to be accountable to parliament. The better that work load is spread and the better the abilities of the people involved, the better this place and the people of South Australia are served.

The member for Stuart, the Hon. Graham Gunn, has said:

> The greater a minister's work load, the less able they are to make informed and effective decisions.

Further, he said:

> The ability for the general public to have access to the decision makers is important. An increase in the size of the ministry will lessen the burden on those very busy ministers and make them more accessible to the public.

Members opposite have queried the impact of the appointment of the member for Mount Gambier on the Ministerial Code of Conduct and, in particular, its provisions reinforcing the collective responsibility of cabinet and cabinet confidentiality. Cabinet solidarity is an important principle in the Westminster system and one that comes under strain in the course of most coalition governments.

Of course, there have been dozens of examples of conservative coalition governments at the state and commonwealth level throughout Australia's history. They were the norm in the latter half of the 19th century. There is only one still in existence at the moment, and that is the Howard-Anderson Liberal-National Party government. Coalitions are traditionally managed by agreements of the sort that this government has entered into with the member for Mount Gambier. In his 1992 text *The Politics of Australia*, Dean Jaensch notes:

> The federal coalition agreement has recognised the right of the National Party to make separate policy statements and election speeches, and there has been more than one occasion when the National Party has taken advantage of this to the point of breaking collective responsibility. Nothing has been done by the Liberal Party to discipline the offenders. The reason, as in so many things in Australian politics, is that self-interest overrides the convention if there is a conflict between the two.

Another commentator has noted:

> Cabinet solidarity is not an absolute value in Australian politics. In Liberal and Country Party coalitions, it was qualified in practice by the not infrequent conflicts of interest between the two parties. It is doubtful whether the machinery or the political style which exists would allow the doctrine of collective responsibility to be converted readily into an administrative principle.

The proposal before the council enhances ministerial collective responsibility by ensuring that all of the members of the ministry will sit at the cabinet table and that all ministers will advise Her Excellency the Governor in the exercise of her statutory powers as members of her executive council. As the Constitution Act currently stands, if one more minister is appointed, five ministers must be excluded from most cabinet discussions and from all Executive Council meetings. The government has enshrined the spirit of collective responsibility, as set out in the Ministerial Code of Conduct, in the detailed public provisions of the agreement it has made with the member for Mount Gambier.

As a minister, the member for Mount Gambier will be exempted from only one part of the ministerial code, and his exemption is subject to the detailed rules and procedures set out in the agreement. Those procedures are designed to preserve the spirit of ministerial conduct by removing minister McEwen from the possibility of breaching the collective responsibility section of the code. He will be removed from the possibility of breaching that provision.

The new code of conduct is one of the toughest codes of conduct applying to ministers in this country. All ministers, including minister McEwen, will be bound by its stringent conditions. In particular, the new code prevents all ministers from actively acquiring shareholdings and other financial interests in companies during their term in office and prevents all ministers from trading—that is, buying or selling—any shares that were held by them before taking up office. Ministers can retain only those shares that do not conflict with their portfolio responsibilities, and if there is a conflict they must divest.

The code requires all ministers, including minister McEwen, to disclose to cabinet office details of any private interests of their spouse, domestic partner, children or business associates that might conflict with their duty as a minister. The code requires all ministers to disclose to cabinet office the content of family trusts. The code prevents all ministers from acting as consultants or advisers to companies and organisations during their term in office, except in their official capacity as minister. The code places a two-year restriction on the type of employment activities, consultancies and directorships that all ministers can take up after they have ceased to be a minister. The code prevents all members from employing members of their immediate families or close business associates in positions in their own offices.

As to cabinet confidentiality, the code sets out specific obligations in relation to cabinet confidentiality as well as procedures for the disclosure of conflicts of interest in respect of matters going before cabinet. All ministers, including minister McEwen, will be bound by this. Under his agreement with the government, minister McEwen will receive cabinet papers in advance. If there is a recommendation in one of them that he fears he will not be able to abide by if it is passed, he must inform the Premier and try to negotiate an outcome.

If, after negotiating, he feels he will not be able to abide by the outcome in cabinet, he must return the papers and excuse himself from that decision in cabinet entirely: he will not be part of that discussion. After that decision is made in

his absence, if he agrees with it, so be it. If he does not agree, he will not be bound by cabinet solidarity but will be able to criticise that decision publicly, but only after it has been publicly announced. He is still bound by cabinet confidentiality and cannot disclose what he may have learnt from the cabinet papers. If, after negotiating, he feels he would be able to abide by the outcome, he will participate in the cabinet decision and be bound by cabinet solidarity.

During the debate, an honourable member asked what happens if the minister absents himself from cabinet discussion of an item and cabinet makes a decision with which he disagrees but it is a decision that he would ordinarily implement or speak to or explain to the parliament as the responsible minister? The occasions when the opting out procedures set in the agreement with the member for Mount Gambier will need to be used are expected to be extremely rare. But, if a situation does arise, as part of the required discussion with the Premier, the Premier and the minister must come to an arrangement to accommodate the minister's position. This may include the delegation of powers in relation to the matters decided in cabinet under the Administrative Arrangements Act. Such delegations are used whenever ministerial conflicts of interest prevent ministers attending to individual items of interest in their portfolio areas. They are rare.

Members opposite have suggested that the existing provisions could be used without amendment to enable the member for Mount Gambier to either take up the position of a delegate minister or to replace an under-performing minister. It is, of course, for the government of the day to determine how the fundamental business of government will be organised. It is also up to the government, and the Premier in particular, to determine how best to allocate ministerial portfolios amongst the talent available. The government has rejected the use of delegate ministers and the concept of an inner and outer ministry.

Members opposite have queried whether or not the issue of Rory McEwen's voting on procedural issues in the parliament against the cabinet of the day has been deliberately excluded from the written agreement between the member for Mount Gambier and the Premier at the request of the member for Mount Gambier. I am advised that it was not.

Members have also asked what, in practical terms, will be the consequences of the member for Mount Gambier's exercising his right to vote procedurally against the government of the day. The government accepts that this is an issue which has the capacity to impinge on collective cabinet responsibility. That is why it is expressly mentioned in the agreement.

Under the agreement, the member for Mount Gambier will clearly not have complete freedom to vote procedurally in terms of the operations of the parliament. In respect of any votes that have a direct effect on a cabinet decision, the Hon. Mr McEwen will have to vote with his cabinet colleagues. However, where the vote involves matters completely outside cabinet deliberations, he may act as a normal parliamentarian, and there is no change from the current situation. If the spirit of the agreement is breached, it will clearly affect the relationship between the coalition partners. I believe that addresses the major issues that have been raised by honourable members.

As a concluding comment, I make the observation that coalition governments are common not only throughout the history of this country but also throughout the world. Obviously, those coalitions come about as a result of negotiation and the political process. At the last election, the numbers in the other place were as the people of this state determined. It was not the preferred outcome of either of the parties; nevertheless, that is what the people of this state determined, and that is the issue that had to be addressed. However, coalition governments work if there is goodwill between the parties involved, and one hopes that that can happen in this case.

Bill read a second time.

In committee.

Clause 1.

The Hon. R.I. LUCAS: As I and a number of my colleagues outlined at the second reading, we intend to ask the government a significant number of questions about how this agreement will operate in practice. In his response, the leader referred to the agreement that has been signed between the member for Mount Gambier and the Premier, and the leader has said that, if the member for Mount Gambier has a problem with a potential issue coming to cabinet, he should meet with the Premier. Indeed, if one looks at clause 3.3, it provides:

> If, after reading a cabinet document, in the opinion of the minister it would be inconsistent with the minister's independence for the minister to be bound by a cabinet decision in relation to an issue, the minister must immediately, upon reaching that opinion, inform the Premier of that fact, together with his reasons, and will meet with the Premier as soon as may be convenient in order to seek some accommodation. . .

On a number of public occasions, the member for Mount Gambier has indicated that, contrary to this agreement, he will not be meeting with the Premier: he will be meeting with the Premier and the Deputy Premier. In fact, on Sunday evening, in an interview with Father John Fleming and Bishop Hepworth, the member made it quite clear that there would be a subcommittee of three (comprising the Premier, the Deputy Premier and the minister); that the subcommittee would meet prior to a cabinet discussion; and that the members would, collectively, make a decision. Of course, the member for Mount Gambier would then make his own decision as to whether it was an issue on which he would exercise his opt-out provision. I do not have a signed copy of the written agreement that has been released publicly, and I am not sure whether the minister can provide a signed copy, so that—

The Hon. J.F. Stefani: I've got one here.

The Hon. R.I. LUCAS: The Hon. Mr Stefani has a signed copy. He is one step ahead of the opposition: I have an unsigned copy of the agreement. The unsigned copy that I have makes it clear that there is no role for the Deputy Premier in relation to these opt-out provisions. Courtesy of the Hon. Mr Stefani, I note that, in the signed copy of the agreement, clause 3.3 is exactly the same as the copy that I have read onto the public record. I thank the Hon. Mr Stefani for that copy.

The member for Mount Gambier has made it quite clear that, in his discussions with the leadership of the Labor Party (and one can only assume that that includes the Premier and the Deputy Premier), this would not be a meeting only with Premier: it would be a meeting, on a regular basis, with the Premier and the Deputy Premier.

Can the Leader of the Government outline whether we are to accept the signed written agreement as an indication of how these opt-out provisions are to operate, or are we to accept the word of the member for Mount Gambier as to the

accuracy of the discussions that he has held with either the Premier or the Deputy Premier?

The Hon. P. HOLLOWAY: If Rory McEwen is happy to have the Deputy Premier at the meetings, and that is what he has indicated publicly, I guess that is what will happen. I do not see the fact that the Deputy Premier might be there would necessarily be inconsistent with anything in this signed agreement. However, I make the general point that I am sure there is some sort of coalition agreement between the National Party and the Liberal Party federally. After all, these agreements are a statement of intention as to how the parties will operate. They have had a longstanding coalition over some years. Obviously, those coalition arrangements must have a certain degree of flexibility. At the end of the day, they will work only if the two parties to the agreement want to make them work, and I guess this is no different. Apart from not seeing any relevance to the clause we are debating, I certainly do not see any particular conflict.

The Hon. R.I. Lucas interjecting:

The Hon. A.J. Redford: Because agreements don't count with this government.

The Hon. P. HOLLOWAY: For the benefit of the Hon. Angus Redford, this bill is not about the agreement: it is about—

Members interjecting:

The Hon. P. HOLLOWAY: That's right. I am endeavouring to be helpful. However, I am saying that the agreement of itself is like any coalition agreement: it will only work, obviously, if the parties are happy—

The Hon. A.J. Redford: Sheer arrogance!

The Hon. P. HOLLOWAY: How is it arrogant? How is it arrogant to have a coalition government? How is that arrogant?

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am sure it is out of order. However, I am prepared to do it, in spite of it being out of order. I make the point that it is irrelevant to the technical wording of the bill. But, given the history of this bill, given the reason it has been introduced—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: I am endeavouring to answer. I would have thought that whether the Deputy Premier is present or not is not inconsistent with the provisions of clause 3.3, as I read them.

The Hon. R.I. LUCAS: If the Leader of the Government is now saying that the drafting of clause 3.3 of this agreement relates only to the Premier and that, indeed, the Deputy Premier can attend these pre-cabinet deliberations, does the Leader of the Government therefore accept that, if he is arguing in that way, any number of ministers can attend these pre-cabinet deliberations with the member for Mount Gambier?

If he is arguing that we should not accept clause 3.3 as it is drafted as being exactly how the agreement will operate and that it is flexible, does he also accept that he is putting the argument to the committee that one should read clause 3.3 to mean that, as long as the member for Mount Gambier is happy, any other cabinet minister can attend this pre-cabinet briefing with the member for Mount Gambier and the Premier to determine the member's actions before he gets into the cabinet on an issue?

The Hon. P. HOLLOWAY: If the member for Mount Gambier is happy, it is convenient and sensible to have the Deputy Premier also present at the meeting, given his role. I do not see that there is any problem with that happening. I do not see how it is necessarily—

An honourable member interjecting:

The Hon. P. HOLLOWAY: Obviously, when we have cabinet meetings, the Hon. Rory McEwen—if this bill is passed—will be at the meetings, but this is just an agreement, an agreement between them that he will meet with the Premier. If Rory McEwen is happy to have the Deputy Premier there and if everyone is happy with that, what is the problem?

The Hon. R.I. LUCAS: My question to the minister is, given the minister's response that if the member for Mount Gambier is happy to have the Deputy Premier at these pre-cabinet deliberations, and, more specifically, if the member for Mount Gambier is happy to have any number of other cabinet ministers in addition to the Premier and the Deputy Premier at these pre-cabinet deliberations, is the government prepared to accept that as well?

The Hon. P. HOLLOWAY: I can only go on what the leader himself reported Rory McEwen as saying, on the radio. If he believes that it is sensible to meet with the Premier and the Deputy Premier, I will take him at his word.

The Hon. A.J. Redford: What about more than that?

The Hon. P. HOLLOWAY: It is a matter between the parties, isn't it? This is an agreement between the parties and the Hon. Rory McEwen will meet with the Premier. If it is convenient for another minister to be there for whatever reason, and if both parties want him there, why should it not happen? What is the difficulty?

The Hon. R.I. LUCAS: No-one is arguing there is a difficulty. We are just trying to understand how this agreement will operate because, ultimately, as I outlined in my second reading contribution, the ministerial code of conduct makes quite clear that the minister will be sacked—any minister, and this minister as well—if he is not prepared to publicly support a decision of cabinet. The ministerial code of conduct is quite explicit in relation to that issue. So, for us to be able to understand, on behalf of the public, in terms of transparency and public accountability of this government—the supposed high standards that this Premier and government profess to be wanting to implement, although they have got off to a very shaky start in the first nine months—

An honourable member interjecting:

The Hon. R.I. LUCAS: I will not be diverted. It is incumbent on this committee of this parliament to understand under what conditions this minister will be able to exercise the opt-out provisions, and on what basis, and how these provisions can be exercised.

If the Leader of the Government is saying he is not prepared to answer the question as to whether, if the member for Mount Gambier is happy for other ministers to attend the pre-cabinet deliberations, they can attend, then fair enough; there is nothing much that the opposition can do. We can move onto the next series of questions. It is going to be easier either for us to get an answer from the leader, without having to have three goes at it, or for him to say he is not prepared to answer that particular question. We can get it off our chest and move on.

All I am suggesting is that, if he wants this committee stage to be expedited, he must either answer the question or say he is not going to or is unable to answer the question. We can then move on. I know that my colleagues have a number of questions, as I have, and I understand that the Hon. Mr Stefani has a series of questions as well, to try to understand how this particular agreement is to operate in practice. So, for the third time, I ask whether the minister is saying he is not

prepared to answer the question in relation to whether, if the member for Mount Gambier is happy to have cabinet ministers other than the Premier and the Deputy Premier at this pre-cabinet soiree, they can then attend the pre-cabinet deliberations as well.

The Hon. P. HOLLOWAY: Obviously, the question is hypothetical at this stage. As the honourable member has pointed out, the agreement states:

> . . . or meet with the Premier as soon as may be convenient in order to seek some accommodation between them in relation to the policy and/or procedure to be followed.

I would have thought that commonsense would say that, if there was an issue where another minister could assist in relation to resolving that issue, between the two, there is nothing in the agreement to preclude that from happening. It is a hypothetical situation. I guess it is really up to the Premier and Rory McEwen. I do not think there is anything in the agreement which would prevent that from happening, if that is what they both wish.

The Hon. J.F. STEFANI: Is the Leader of the Government indicating that, under the circumstances he has just described—that it is up to the member for Mount Gambier and the Premier—those two people can act separate to the bloc of other cabinet ministers in relation to the responsibilities of ministers of the Crown and the cabinet?

The Hon. P. HOLLOWAY: No. The agreement states:

> If, after reading a cabinet document, in the opinion of the minister [that is, Rory McEwen] it would be inconsistent with the minister's independence for the minister to be bound by a cabinet decision in relation to the issue the minister must, immediately upon reaching that opinion, inform the Premier of the fact, together with his reasons, or meet with the Premier as soon as may be convenient in order to seek some accommodation. . .

It is just a process: it is really nothing more.

Members interjecting:

The Hon. P. HOLLOWAY: How do your federal colleagues get over it with the National Party? They have been in coalition for many years. There will from time to time be issues that—

Members interjecting:

The Hon. P. HOLLOWAY: Well, they do not necessarily have the same philosophy on a lot of issues. Some would argue that the National Party is more socialist than the—

Members interjecting:

The Hon. P. HOLLOWAY: But that is another situation.

Members interjecting:

The CHAIRMAN: Order!

The Hon. P. HOLLOWAY: We have seen that there are, from time to time, disputes between the National Party and the Liberal Party, federally, on issues. There are obviously mechanisms involved there. I presume that somewhere there is a code in writing, which probably nobody ever looks at, between the Liberal Party and the National Party that governs their coalition. With all these political coalitions—and there have been thousands of them throughout the world and there always will be—at the end of the day these things work.

The Hon. J.F. STEFANI: This is an important question, in the sense that it is tied to a piece of legislation that we are considering and to the pact that has been signed by two individuals. The pact declares that the agreement is conditional on the approval of the cabinet, the Labor caucus and the South Australian branch of the Labor Party. Can the Leader of the Government indicate whether those three approvals have been sought and granted?

The Hon. P. HOLLOWAY: Certainly, in relation to the caucus, yes. In relation to the executive council of the Labor Party, I believe the answer to that is also yes. What was the third one? Which clause is the honourable member referring to?

The Hon. J.F. Stefani: 1.1

The Hon. P. HOLLOWAY: Regarding the South Australian branch of the Australian Labor Party, yes. It has been through the state executive of the party, the parliamentary caucus and the cabinet.

The Hon. Caroline Schaefer: Before or after?

The Hon. P. HOLLOWAY: The honourable member asks, 'Before or after?' Obviously, you have to get an agreement drafted before you get approval for it, don't you? That is obvious.

The Hon. J.F. STEFANI: I have another question in relation to his now cabinet colleague and a comment by the Hon. Pat Conlon. I wish to explore this comment with the Leader of the Government in this chamber and whether he concurs with his colleague who is a minister of the Crown. He described Mr McEwen's independence as 'geographically organised'. His view was that when he is with the people of Mount Gambier he is very Independent, but, the further north he goes, the more Liberal he gets—

The Hon. R.I. Lucas interjecting:

The Hon. J.F. STEFANI: This is Pat Conlon, a ministerial colleague of the Leader of the Government in this chamber. Does the Leader of the Government in this chamber concur with his colleague's views?

The Hon. P. HOLLOWAY: I am not sure when or in what context my colleague made those comments, but I am sure that all sorts of things are said in debate. All I can say is that, in my dealings with Rory McEwen over a number of years now, I have always found him to be truly independent, very cooperative and very effective member of parliament for his local area.

The Hon. J.F. STEFANI: Given that the now de facto Labor minister the member for Mount Gambier enunciated his policies during the election and said that he was calling an end to taxpayers' funded overseas junkets for politicians who are provided with $37 800 annually, does the Leader of the Government agree with the concept and the policy that the new de facto Labor member is promoting for not only cabinet ministers but other members of parliament?

The Hon. P. HOLLOWAY: First, let me say it is not correct to describe Rory McEwen as a 'de facto Labor politician': he will retain his independence—he always has—and he will be a member of the Labor cabinet. This situation is not all that unusual in the Labor Party. I was a member effectively of a coalition government in 1993 when we had Terry Groom and—

The Hon. R.I. Lucas: They were Labor members.

The Hon. P. HOLLOWAY: They had left the Labor Party, as indeed has the Hon. Terry Cameron. Does that make Terry Cameron a Labor member as well, considering the comments he made today?

The CHAIRMAN: I remind members of the time.

The Hon. P. HOLLOWAY: Yes, I am sorry, Mr Chairman. I do not believe that is correct. Certainly the Hon. Rory McEwen will be in a coalition arrangement with the Labor government and we know the reasons why. We know the numbers in the house, we know who the public chose in the last election and the circumstances which have led to this. I guess members of the Liberal Party would have liked to have a majority in their own right. The Labor Party would have

liked to have a majority in its own right, but we did not. The thing is that we owe the people of this state stable government, and that is what we are seeking to achieve.

The Hon. J.F. STEFANI: I have another question on the subject of overseas junkets, as described by the member for Mount Gambier. Will the Leader of the Government in this chamber provide full details of the total expenditure incurred by the member for Mount Gambier when he was deputised to represent the Labor government in his recent overseas junket, as he has called it? I want full details of accommodation costs, travel costs, other backup costs of ministerial staff or support that he had, entertainment expenses and all other expenses in relation to his trip.

The Hon. R.K. SNEATH: Mr Chairman, I rise on a point of order. I do not see the relevance of that question or what it has to do with the bill—

Members interjecting:

The CHAIRMAN: Order! A point of order is being made and members will remain silent.

The Hon. R.K. SNEATH: It is a question that could be asked in this chamber at question time, but I do not see its relevance to this bill.

The CHAIRMAN: It is accepted that there is a point of order, but what we are doing in this committee is trying to accommodate this bill. Members have indicated that they wish to ask questions, but the question asked by the Hon. Julian Stefani has nothing to do with the bill and it is a question that he is capable of asking either during question time or as a question on notice. The minister is trying to accommodate his views and the views of other members and, if he wishes to answer the question, he can, but I ask the honourable member to confine his line of questioning to the terms of the bill.

The Hon. P. HOLLOWAY: Obviously, I do not have those figures with me because it is not really—

An honourable member: A cover-up!

The Hon. P. HOLLOWAY: Put that on the record. We are talking about changing the constitution of this state and I am accused of a cover-up because I do not have with me the information about a trip that a member of parliament took some years ago. In relation to that question, I will seek to get the information for the honourable member, but obviously I do not have it with me at the moment.

The Hon. R.D. Lawson interjecting:

The Hon. P. HOLLOWAY: Why should I have that information? We are not talking about the member for Mount Gambier, we are talking about a bill to amend the Constitution Act. I will try to get that information

The Hon. J.F. STEFANI: I accept the leader's undertaking that he will seek the information and provide it to me at his convenience.

Members interjecting:

The CHAIRMAN: Order! I ask members to concentrate on the committee stage of the bill and cease interjecting across the chamber. It is 5 past 6: we will be moving a procedural motion at 6.30. This is a matter that ought to be capable of being resolved before then.

The Hon. A.J. REDFORD: My question relates to the agreement entered into between the Premier and the member for Mount Gambier (described in this document as 'minister'), in particular clause 2.9, which says:

> The minister will be bound by the ministerial code of conduct except as provided for in this agreement.

Could the minister by reference to the ministerial code of conduct indicate which specific clauses are subject to this particular agreement?

The Hon. P. HOLLOWAY: I thought I answered that in my second reading speech. I will read it again for the benefit of the honourable member if he was not present. As a minister the member for Mount Gambier will only be exempted from one part of the ministerial code and his exemption is subject to the detailed rules and procedures set out in the agreement. Those procedures are designed to preserve the spirit of the ministerial code by removing minister McEwen from the possibility of breaching the collective responsibility section of the code. He will only be exempted from one part of the ministerial code—

The Hon. A.J. Redford: Which part?

The Hon. P. HOLLOWAY: That relates to the possibility of breaching the collective responsibility section of the code. Under clause 2.8, the cabinet collective responsibility: the minister is responsible with all other ministers for the decisions of cabinet. Clearly, that relates to that one matter and the process which the leader asked me about earlier.

The Hon. A.J. REDFORD: Does this agreement modify any requirement set out in clause 2.9 of the Ministerial Code of Conduct?

The Hon. P. HOLLOWAY: I refer back to the answer I gave in my second reading response. As to cabinet confidentiality, the code sets out specific obligations in relation to cabinet confidentiality as well as procedures for the disclosure of conflicts of interest in respect of matters going before cabinet. All ministers, including minister McEwen, are bound by this.

The Hon. A.J. REDFORD: In respect of clause 3.8 of the agreement, which enables the member or the minister to criticise a government policy, is he still bound by clause 2.9 of the Ministerial Code of Conduct?

The Hon. P. HOLLOWAY: In the agreement, clause 3.8 provides:

> The Premier agrees that the minister, having complied with the agreements in this agreement, is not subject to the usual rules of cabinet solidarity in respect of that particular matter. In particular, the minister, whilst remaining a member of the cabinet, may criticise the particular government policy in relation to which the minister absented himself from cabinet after the policy has been publicly announced.

Clause 3.9 of the agreement provides:

> The minister may not divulge any of the material in any cabinet documents and is bound by cabinet secrecy in the same way as any minister, notwithstanding anything in this agreement.

The Hon. A.J. REDFORD: In other words, the minister is bound by cabinet confidentiality, even if he is called before a select committee in relation to an issue that he is publicly critical of in order to give evidence about any information that he might have.

The Hon. P. HOLLOWAY: It would operate the same way in that situation, if I understand the question correctly, and I am not quite sure that I do. It would be the same as for any other minister.

The Hon. J.F. STEFANI: Can the Leader of the Government advise the committee why the minister would be restricted by this agreement in only having issues of conflict or difference as they relate directly and immediately affect the minister's electorate, and significant matters affecting the business community? Can the minister describe how the member for Mount Gambier can divorce himself from his ministerial duties in relation to the obligations that are

attached to his ministerial duties and the provisions of this clause in the agreement?

The Hon. P. HOLLOWAY: I am not quite sure that I understand what the Hon. Julian Stefani is getting at. This agreement has been reached after negotiation between Rory McEwen and the government. I ask the honourable member to clarify his question because I am not quite sure what point he is driving at.

The Hon. J.F. STEFANI: I will endeavour to make the question a bit clearer. My understanding of this agreement is that the member for Mount Gambier has limited opportunity to raise issues of concern or disagreement as they relate directly and which immediately affect his electorate, and where those issues with which he has differences, in his position as a minister of the Crown, significantly affect the business community. Does the Leader of the Government concur with my understanding of that provision?

The Hon. P. HOLLOWAY: I think the honourable member is asking whether these are flexible and broad conditions. If that is his question, the answer is yes. There must be some flexibility in this. It is a matter of interpretation. Again I come back to the point that coalitions operate with goodwill. It would be impossible in any agreement to write down all the contingencies that might arise over the next 3½ to four years. It would not be possible to put in writing all the issues that might arise. What has been attempted in this agreement is to try to quarantine it to issues where there may be potential problems. The idea is to quarantine them and pick them out in the agreement

The Hon. A.J. Redford: It is very vague.

The Hon. P. HOLLOWAY: There is some ambiguity, yes, as I am sure there is with any coalition agreement. Would the agreement between the Liberal Party and the National Party have a list of things where there might be agreements over the next—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: There can be some huge differences within that coalition, as we have seen in the past. You cannot predict or spell out in an agreement everything that might happen over the next three or four years and, even if you did, something would always come out of left field.

The Hon. A.J. REDFORD: Has the minister, as described in this tawdry agreement, and the government identified which of the Labor policies potentially fall within the description set out in clause 2.7.1 and clause 3.5.2, that is, significant matters affecting the business community?

The Hon. P. HOLLOWAY: I am not aware of anything specifically being identified in relation to that. Even if we did, would it be possible to identify things in the future? If you are talking about matters of conscience, the Labor Party determined that stem cell research would be a conscience vote, but no-one had heard of that issue a few years ago. Who is to say what other issues may be deemed to be matters of conscience in the future? It is not possible to be prescriptive on every single issue. Both sides of the party would have an understanding of the sort of matters that would be covered by the agreement. We have that sort of understanding about what matters of conscience are.

The Hon. A.J. REDFORD: I did not ask a question about conscience. It did not even pass my lips.

The Hon. P. Holloway interjecting:

The Hon. A.J. REDFORD: No, clause 2.7.1 and clause 3.5.2, that is, significant matters affecting the business community. One might think, so that the public of South Australia is not caught up in any surprise, that there is no question that there is any arbitrariness or contrariness on the part of one individual member of cabinet that, in the space of a half hour or an hour, the Premier and the minister could have gone through ALP policy—and I am sure members on this side would agree that it would not take more than 10 minutes to read most of the policies issued at the last election—and identified precisely which ones were significant matters affecting the business community. Will that happen before the minister is sworn in?

The Hon. P. HOLLOWAY: I do not know the answer to that question. I strongly suspect not. We are just identifying signposts, potential areas of conflict, and setting a process in place so that the coalition government can work. It sets down some means of identifying potential areas of conflict and puts in place a process for dealing with them. That is what this agreement is all about. The reference to significant matters affecting the business community means that the government would be very wise to talk to Rory McEwen on any matter that has a significant impact on the business community. Isn't that what we are saying? Certainly, in relation to my portfolio, that is how I would be interpreting it. We would ensure that those matters were handled with an appropriate level of communication. This is about having good communication between the parties to this coalition.

The Hon. A.J. REDFORD: Are there any other agreements or arrangements, either verbal or otherwise, outside the agreement that has been referred to previously in this debate?

The Hon. P. HOLLOWAY: I am certainly not aware of any.

The Hon. A.J. REDFORD: Could the minister check and, if there are, could he bring back some information to this place?

The Hon. P. HOLLOWAY: I guess that we can check on that matter.

The Hon. A.J. REDFORD: What events would lead to a situation where the Premier might seek to dismiss the minister from cabinet and, in particular, would a breach of the Ministerial Code of Conduct lead to an automatic dismissal?

The Hon. P. HOLLOWAY: Again, if one can just ignore the terms of the agreement for a moment and look at what happens with existing coalitions elsewhere in the world, I think that one could say that coalitions will survive only if there is a proper working relationship between the two parties. Clearly, the new minister must comply with the code of conduct as we have indicated, with the one exception that we have already discussed. It would be expected that the minister would, apart from that one exception, comply like every other minister and be subject to the same sanctions as every other minister.

The Hon. A.J. REDFORD: Putting aside the fact that the other coalitions to which the honourable member keeps referring have more than one member of a party involved, can I assume that, based on what the minister said in a roundabout way, if there is a breach of the Ministerial Code of Conduct, notwithstanding the immense power that the member for Mount Gambier will enjoy as a consequence of the agreement, he will be treated in exactly the same fashion as any other minister, that is, liable to be sacked or dismissed from cabinet?

The Hon. P. HOLLOWAY: A sacking is another matter. One would hope that the first part of the question is correct: that he would be treated in the same manner as other ministers. Of course, the penalty for any breach would depend on the extent or gravity of the breach.

The Hon. A.J. Redford: Or how much you need his vote.

The CHAIRMAN: The honourable member cannot ask a question from his seat.

The Hon. R.I. LUCAS: I asked a question in the second reading and I seek an answer from the minister. The Ministerial Code of Conduct, under 2.8, makes it quite clear that if a minister is unable to support a cabinet decision publicly the minister should resign from cabinet. So, we are not talking about a hypothetical. That is the Ministerial Code of Conduct released by the new Premier. Does the Leader of the Government accept that if the member for Mount Gambier, as minister, is unable to support publicly a decision by a cabinet colleague to reduce funding for one of his local schools, local hospHOSPitals, or some other local expenditure that, under the Ministerial Code of Conduct, he must resign?

The Hon. P. HOLLOWAY: I think the key is that it depends on whether he participates in the cabinet decision. If he participates in the cabinet decision he would be bound by solidarity; if he did not, then, I guess, the other provisions would apply. Let me also say that, in relation to the point the Hon. Angus Redford was trying to make with the previous question, if you have a hung parliament the position of Rory McEwen is not significantly different, I would have thought, than—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: —listen; wait until I have finished—any of the other 13 ministers. That is what—

The Hon. A.J. Redford: If you sack another minister you have replacements, you have reserves. Rory does not have any reserves.

The Hon. P. HOLLOWAY: In a hung parliament—and, I guess, that is the situation we are in—those sorts of conditions always come into play. That has been the history of politics ever since Magna Carta.

The Hon. R.I. LUCAS: I accept partly the answer from the Leader of the Government to my last question. However, I indicate that, in relation to budget decisions, the member for Mount Gambier, as a member of the cabinet, will be a part of a budget process which will be approved by the cabinet and which, for example, will say to the Minister for Education, 'You have a budget of X dollars,' and, in real terms, that may well be a slight reduction or a slight increase, and that is an approval of a cabinet decision by minister McEwen and the other cabinet ministers.

Does the Leader of the Government accept that, in those circumstances, collective cabinet responsibility must ensure that, in relation to the budget, every minister, including minister McEwen, will have to publicly support a cabinet decision, such as a budget, which may well mean reductions in expenditure by other ministers in his portfolio area?

The Hon. P. HOLLOWAY: That is certainly my understanding of the situation.

The Hon. R.I. LUCAS: Under the new government, are cabinet committees empowered to make decisions with the full authority of cabinet?

The Hon. P. HOLLOWAY: Only if they had been specifically delegated from cabinet.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: We would probably need to take that on notice. It would depend on the level of delegation. Obviously, cabinet committees have been asked to consider certain matters, but whether they have been specifically given a decision making power without its coming back to the full cabinet, I am not aware of one. We will have to check that.

The Hon. R.I. LUCAS: I do not have official advice—

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: —no, I accept that—but the unofficial advice—and I accept that it is unofficial—is that cabinet committees have been so authorised with the decision making power. I will therefore operate on that basis. If, by way of letter or statement to the council next week, the minister indicates that there are no cabinet committees with that decision making power, these questions, obviously, will not carry any weight. I ask how it is intended that minister McEwen, under the terms of this agreement, will be bound or not bound in relation to the operations of a cabinet committee?

If one looks at a working example with which I have some experience, say, a cabinet committee of three ministers, which does not include minister McEwen, that has been authorised to make decisions with the full authority of cabinet (for example, it might approve a contract, a government radio network contract, or something like that), how does the government intend this compact with the member for Mount Gambier to operate in relation to those cabinet committees? Will the member for Mount Gambier be advised prior to every cabinet committee deliberation, even though he is not himself a member of that particular cabinet committee?

The Hon. P. HOLLOWAY: I believe that this government has been trying to tighten up on that sort of delegation of authority to cabinet subcommittees. Cabinet subcommittees do perform very useful functions but, in terms of giving them power to make decisions independent of cabinet, I believe that has been fairly strictly controlled. In terms of the budget committee, of which I am not a member, I guess one could say at the end of the day that ultimately the budget goes back to cabinet for approval. Certainly, in respect of all the other committees of which I am aware—I am not a member of all of them, so I cannot be totally definitive—it is my understanding, as I said, that the government is trying to tighten up, and decisions such as that would generally go back to cabinet.

The Hon. R.I. Lucas interjecting:

The Hon. P. HOLLOWAY: I suppose that situation would apply for other ministers, but we have a situation within our cabinet where ministers are able to—

The Hon. A.J. Redford interjecting:

The Hon. P. HOLLOWAY: Why don't you listen to the answer? If it is a matter within their particular interest or portfolio, cabinet ministers are seconded to the relevant cabinet committee. If the cabinet subcommittees are working correctly, these things should not be a problem. This government intends to ensure that they do work properly.

The Hon. T.G. ROBERTS: Mr President, I draw your attention to the state of the committee:

A quorum having been formed:

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That standing orders be so far suspended as to enable the sitting of the council to be extended beyond 6:30 p.m. to enable the business of the day to be concluded.

Motion carried.

The Hon. R.I. LUCAS: The issue we were addressing before that procedural motion related to cabinet committees. The point I make to the Leader of the Government is that Labor ministers are different from the member for Mount Gambier because Labor ministers do not have an opt out provision in their agreement which, if it is to be exercised at

all, must be done on the basis of the minister's being made aware of the cabinet papers before he enters either a cabinet committee or a cabinet, and the minister is bound by the collective responsibility requirements of the ministerial code. One cannot compare Labor ministers who might want to be on cabinet committees with the position of the member for Mount Gambier.

My specific question for the Leader of the Government is: in relation to the issues of the cabinet committees, will the member for Mount Gambier have to be provided with all of the papers for cabinet committees prior to meetings so that he can decide whether or not he wants to exercise his opt out provisions and his capacity to publicly criticise a potential decision of a cabinet committee?

As I have indicated, if a cabinet committee was to make a decision on a controversial contract or something along those lines and all Labor cabinet ministers are bound to that particular decision, the member for Mount Gambier may wish to exercise an opt out provision, but of course if he is not a member of the cabinet committee he will not be aware of it.

The Hon. P. HOLLOWAY: I suppose that the Hon. Rory McEwen would be present at the time when any delegation takes place. If the delegations were restrictive enough, that should be sufficient notice. The question that the leader raises is legitimate. Obviously, we will have to have a look at the procedures relating to cabinet committees to ensure that no problems arise out of those delegations. Commonsense alone should dictate that. The leader raises a fair point; we will look at those procedures.

The CHAIRMAN: Order! I draw the attention of members to the standing orders in respect of committees. I refer, in particular, to standing order 366, which provides:

> Members may speak more than once to the same question, and debate shall be confined to the motion or amendment immediately before the committee.

I have asked members to take particular note of this standing order because this committee has been deliberating for over one hour and we have spoken only on the question of agreement between the government and another party. This bill has two titles: the short title which states that the act may be cited as the Constitution Act—and it explains that—and the second one is an amendment before the committee. I point out to the committee that neither of those has been mentioned in committee to this point. I understand that this is an issue of some relevance to the parliament—and that is fair enough—but I believe that accommodation has been made to the extension of what is reasonable at this point. I ask members to confine their remarks to the matters before the committee.

The Hon. R.I. LUCAS: In responding to your comment, Mr Chairman, the whole debate on the second reading under your presidency and chairmanship and that of acting presidents has significantly covered the areas of the agreement because, in essence, it is inextricably bound to this particular decision. If subsequently you rule questions out of order, that is a decision for you to take, but it is not one with which I could indicate agreement.

In relation to the cabinet committees, I understand the position of the leader of the government. He is basically saying he does not have an answer. The problem for the committee, of course, is that we are being asked to vote on this issue within the two or three days that the matter has been in the Legislative Council.

The Hon. J.F. Stefani: Less than that.

The Hon. R.I. LUCAS: My colleague says less than that. We are being asked to vote on something which is of critical importance to good governance in South Australia. It is certainly not my personal intention to unnecessarily delay the committee stage, but I seek an undertaking from the Leader of the Government.

The Hon. P. Holloway interjecting:

The Hon. R.I. LUCAS: If the Hon. Mr Holloway wants to make snide comments, I am prepared to accommodate him in any way he wishes. I seek an undertaking from the Leader of the Government to my question in relation to the cabinet committees. Should the bill pass this place today, is he prepared to bring back a statement to the house next week on behalf of the Premier which indicates specifically an answer to the question that I have put? I think this council is entitled to know that because, if we want to raise an issue in the parliament about a minister perhaps having to resign because of not adhering to the Ministerial Code of Conduct, we ought to be able to understand the nature of the processes that have been agreed between this government and the member for Mount Gambier. As I said, if a cabinet committee has cabinet decision making power, this parliamentary committee is entitled to know what the rules will be in relation to the member for Mount Gambier.

So, is the Leader of the Government prepared to give an undertaking, should the bill pass this place this evening, that he will bring back to the council a statement on behalf of the Premier as to whether or not the member for Mount Gambier will be provided with the agenda and cabinet papers for all of the cabinet committees; or how does the Premier intend the opt-out provisions to apply to the member for Mount Gambier in relation to the operations of cabinet committees?

The Hon. P. HOLLOWAY: The operations as they relate to the Hon. Mr McEwen obviously are set out in the agreement. As the leader has pointed out, it does not cover cabinet, so I concede it is probably a reasonable point and something that needs to be addressed. I am prepared to get what advice I can from the Premier in relation to that.

The Hon. R.I. LUCAS: The other area that I raised in the second reading, so that the government had notice of almost 24 hours, was in relation to clause 5 of the agreement in relation to voting in parliament. Clause 5 indicates:

> Save for a matter on which the minister has absented himself from cabinet in accordance with clause 3 of this agreement, the minister agrees to support the government in the parliament and to vote with the government on any matter raised in the parliament which has received the prior approval of cabinet.

As I highlighted last evening, many procedural issues have to be voted on by the parliament. There is the expectation that collective cabinet responsibility means that cabinet ministers will vote with the government of the day, yet this agreement specifically does not address the issue of whether or not the member for Mount Gambier is required to vote on procedural issues on all occasions with the government of the day. Does the Leader of the Government have an answer to that question?

The Hon. P. HOLLOWAY: I thought I had answered it, but I will repeat it in case I did not. Members opposite have queried whether or not the issue of Rory McEwen's voting on procedural lines in parliament against the cabinet of the day was deliberately excluded from the written agreement between the member for Mount Gambier and the Premier at the request of the member for Mount Gambier. I am advised that it was not.

Members have also asked what, in practical terms, will be the consequences of the member for Mount Gambier's exercising his right to vote procedurally against the government of the day. The government accepts that this is an issue which has the capacity to impinge on collective cabinet responsibility. That is why it is expressly mentioned in the agreement.

Under the agreement, the member for Mount Gambier will clearly not have complete freedom to vote procedurally in terms of the operations of the parliament. In any votes that have a direct effect on a cabinet decision, Mr McEwen will have to vote with his cabinet colleagues. For example, the decision to have a bill debated and brought into operation as soon as possible, voting for a quick passage, and so on, are such cases. But, where the vote involves matters completely outside cabinet deliberations, he may act as a normal parliamentarian, and there is no change from the current situation.

The Hon. A.J. REDFORD: During the course of my second reading contribution, when dealing with the issue of the Ministerial Code of Conduct which binds all ministers that are referred to in clause 2 of this bill which seeks to amend section 66—and I hope I have complied with the standing orders in that preamble—I raised an issue concerning disclosure of interest. First, I raised the question of the minister being a creditor of PISA. Is the minister able to confirm whether or not that is Primary Industry SA, as it was known, or some other private sector body?

The Hon. P. HOLLOWAY: No, I cannot. I have no idea of those matters. I suppose I could find out, although it would probably be quicker to ask the member for Mount Gambier than it would be to try to seek that information from the department. Perhaps to clarify that, is this in relation to the member's pecuniary interests?

The Hon. A.J. Redford: Yes.

The Hon. P. HOLLOWAY: I guess that all I can do is undertake to try to get some information in relation to that, but I am not sure whether it is really appropriate for me to request from any member of parliament details of their pecuniary interests. I suspect that may be a bit of an intrusion that I am rather reluctant to get into, but I can only promise to get what information I can. I am a little bit reluctant to go delving into other people's pecuniary interests.

The Hon. A.J. REDFORD: Will the minister also provide, notwithstanding the passage of this bill, an assurance that the member for Mount Gambier, in any of his capacities as Minister for Local Government and/or Minister for Trade and Regional Development and/or Minister Assisting the Minister for Federal-State Relations, does not have any financial or other arrangements which might cause him to be in an actual, apparent or potential situation of conflict of interest?

The Hon. P. HOLLOWAY: Minister McEwen will be bound by exactly the same conditions, so the relevant part of the code would apply. That is my advice. It is in part 3.

The Hon. T.G. CAMERON: I apologise to the Leader of the Government: I was absent during his reply, so I missed it. Did he canvass the queries that I raised in relation to whether, on behalf of the government, he would give an undertaking that there is no intention on the part of this government to appoint more than 14 ministers between now and the next election?

The Hon. P. HOLLOWAY: That was made crystal clear in the other place by the Premier. The Premier has repeated that publicly.

Clause passed.

Clause 2 and title passed.

Bill reported without amendment; committee's report adopted.

The Hon. P. HOLLOWAY (Minister for Agriculture, Food and Fisheries): I move:

That this bill be now read a third time.

The council divided on the third reading:

AYES (17)

Dawkins, J. S. L.	Elliott, M. J.
Evans, A. L.	Gago, G. E.
Gazzola, J.	Gilfillan, I.
Holloway, P. (teller)	Kanck, S. M.
Lawson, R. D.	Lucas, R. I.
Redford, A. J.	Ridgway, D. W.
Roberts, T. G.	Schaefer, C. V.
Sneath, R. K.	Stephens, T. J.
Zollo, C.	

NOES (2)

Cameron, T. G.	Stefani, J. F. (teller)

Majority of 15 for the ayes.

Bill thus read a third time and passed.

LOCAL GOVERNMENT (ACCESS TO MEETINGS AND DOCUMENTS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I move:

That this bill be now read a second time.

I seek leave to have the second reading explanation inserted in *Hansard* without my reading it.

Leave granted.

The government's commitments to improved honesty and accountability in government will flow on to local government councils in two ways. Legislation affecting the public sector generally, such as the *Freedom of Information Act 1991* and the *Ombudsman Act 1972* already incorporates local government, and amendments to those Acts contained in bills currently before the Parliament also cover local councils. In addition, it is necessary to look at the *Local Government Act 1999* to determine whether any specific changes to the accountability framework unique to local government are warranted.

This bill deals with the specific circumstances, set out in sections 90 and 91 of the *Local Government Act 1999* [the Act], under which a council or council committee meeting can make orders to exclude the public to consider a particular matter and to over-ride the automatic right the public would otherwise have under the Act to access to the reports, resolutions or minutes relating to that matter. It is intended to reinforce the principle that, wherever possible, the public should have access to council and council committee meetings and meeting documents.

The bill's objectives are consistent with those behind the amendments introduced to the *Freedom of Information Act 1991*. The amendments proposed require the application of a public interest test in some cases, a concept familiar from freedom of information legislation. In considering this bill it is important to note that an order made in a council or committee meeting to keep meeting documents relating to a matter 'confidential' in terms of the rights that would otherwise apply under the Local Government Act does not determine whether access to those documents will be given on application under the *Freedom of Information Act 1991*, although similar considerations may apply.

The bill also contains a number of minor and technical amendments to the Act, some of which formed part of a *Statutes Amendment (Local Government) Bill 2000* that lapsed at the conclusion of the last sitting of Parliament.

A consultation package was prepared containing a draft of the bill, together with explanatory papers outlining its specific proposals, and also seeking comments on current practices and further ideas for reforms that would contribute to openness, including non-legislative measures. The consultation package was distributed to all councils, local government unions and peak bodies, the media, members of Parliament, and to the public on request. Its availability was widely publicised in the Messenger Press, which continues to perform a valuable service for local communities by drawing attention to councils' practices in relation to open meetings. Consultation took place over a five week period. In total 40 responses were received by the due date of 20 September 2002 and every effort was made to consider submissions that arrived after the due date.

The majority of submissions, including those from local government, congratulated the government for pursuing the principles embodied in the draft bill or expressed support for the thrust of the amendments. A number made suggestions for refinements and additions that have been considered in finalising the bill for introduction. It was also very useful to be able to take into account the experiences of a small number of individuals and resident and ratepayer groups who made submissions on the bill.

The amendments contained in the bill, as refined following the consultation process, rationalise and reduce the number of grounds that councils may use to exclude the public from meetings and to restrict automatic access to meeting documents by

- merging various grounds relating to personnel matters, personal hardship and the health or financial position of a person into a ground covering 'the unreasonable disclosure of information concerning the personal affairs of any person'
- replacing 'possible' litigation with litigation that the council 'believes on reasonable grounds will take place'
- removing the consideration of 'advice from a person employed or engaged by the council to provide specialist professional advice' as a ground for excluding the public
- making the grounds for exclusion that relate to commercial confidentiality (except trade secrets) and confidential inter-governmental communication subject to a public interest test
- clarifying the ground relating to prejudicing the maintenance of the law
- ensuring that the price payable by the council under a contract for the supply of goods or services must be made public once the contract has been entered into

To further improve the framework for public access, the bill requires that councils

- review, at least once a year, orders that meeting documents associated with a matter that has been dealt with in confidence not be made public
- place the dates, times and places of council and council committee meetings on the Internet (where practicable) and consider other methods of publication likely to come to the attention of their community
- charge no more for copies of documents to which the public is entitled to under the Act than a reasonable estimate of the direct cost to the council in providing them
- report annually on cases where it has used sections 90 and 91, and on FOI applications.

Local Government peak bodies and councils made constructive comments on the bill and helpful suggestions for legislative and non-legislative ways of continuously improving and maintaining a culture of openness in decision-making in the local government context. For example, it was suggested that the requirement for councils to review the operation of their codes of practice for the application of sections 90 and 91 of the Act each financial year tended to make this a routine exercise and that it would be more effective to require the code to be reviewed following each periodical election, and to provide more information about best practice at this time, so that newly-elected councils became familiar with, and committed to, the principles and practices.

A feature of the current scheme is that, instead of relying on the general power of the Ombudsman to investigate complaints against councils under the *Ombudsman Act 1972*, section 94 in the Meetings Chapter of the Act includes specific powers for the Ombudsman to investigate complaints that a council may have unreasonably excluded members of the public from its meetings or unreasonably prevented access to meeting documents. This provision gives the issue prominence, including in a separate section of the Ombudsman's annual report. The bill proposes a specific capacity for the Ombudsman and the Minister to publish these reports, or summaries of these reports, in such manner as they see fit. The intention is to publicise these more widely so that all councils can benefit from these 'case studies' and apply the principles and findings to their own practice.

In addition the bill proposes to insert a new section 93A to include a power for the Ombudsman to conduct a review of the practices and procedures of one or more councils or council committees relating to access to meetings and meeting documents, corresponding to the general power for the Ombudsman to conduct an administrative audit proposed under the *Ombudsman (Honesty and Accountability in Government) Amendment Bill 2002*. This will give the Ombudsman greater capacity to influence the systematic improvement of councils' practices and procedures in this area, including in relation to 'informal gatherings'. Submissions from local government called for the provision of more 'best practice' information and guidance for councils, and the Ombudsman is uniquely placed to provide this as part of the process of conducting and reporting on such an audit.

Minor and technical amendments include amendments:

- clarifying that a copy of council's a rating policy summary only needs to go out with the first rates notice, rather than with each instalment notice
- providing power for councils to grant a rebate of rates where appropriate to phase-in the impact of a redistribution of rates arising from a change in the basis or structure of the rating system, for a maximum of three years
- clarifying the application of the community land provisions in relation to easements and the closure of roads under *Roads (Opening and Closing) Act 1991*
- clarifying situations where public notification is required prior to a council granting an authorisation or permit for use of a road
- specifying that a by-law may include a penalty up to $50 per day in the case of a continuing offence, a provision of the 1934 Act that was inadvertently omitted from the 1999 Act
- providing that sitting councillors who unsuccessfully contest a supplementary election for a different office on council will retain their former positions instead of losing office at the conclusion of the supplementary election, if the vacancies that would otherwise be caused by them losing office arise within 5 months of polling day for the next periodical local government elections and consequently would not be filled
- extending the period by which the Adelaide City Council is required to prepare a management plan for the Adelaide Park Lands from 1 January 2003 to I January 2005, which is the same timeframe other councils have to prepare any required community land management plans
- clarifying the definitions of 'ward quota' and 'representation ratio'

The measures contained in this bill, together with non-legislative measures developed in conjunction with the Local Government sector, should result in councils and council members adopting the best local government practices in relation to open meetings and access to meeting documents. The government hopes that honourable members will be able to deal with the bill expeditiously so that various minor and technical amendments sought by councils can take effect without delay.

Explanation of clauses

Clause 1: Short title

This clause is formal.

Clause 2: Commencement

The measure will be brought into operation by proclamation. However, it will be appropriate to provide that an amendment to be effected to section 193 of the *Local Government Act 1999* will be taken to have come into operation on 1 January 2000.

Clause 3: Amendment of s. 4—Interpretation

It is appropriate to 'up-date' a reference to Commonwealth legislation (*see* paragraph *(a)*). It is also necessary to amend this section because the *Local Government Act 1934* provided a definition of 'unalienated Crown land', but the term was inadvertently omitted from the new Act. It is therefore now to be included in the new Act.

Clause 4: Amendment of s. 12—Composition and wards

The concept of the ward quota under section 12(24) is to be amended to make reference to councillors who represent wards, rather than all councillors for the area, in order to correct a technical error.

Clause 5: Amendment of s. 28—Public initiated submissions

This amendment addresses a minor drafting matter by altering the words 'structure reform proposal' to 'structural reform proposal'.

Clause 6: Amendment of s. 33—Ward quotas

This amendment is consistent with the amendment to section 12 of the Act.

Clause 7: Amendment of s. 54—Casual vacancies

Section 54(2) of the Act provides that if a member of a council stands for election to another office, the member's original office is vacated at the conclusion of the relevant election (whether or not the member is elected to that other office). The amendment will provide that a member will not lose his or her office under subsection (2) if the vacancy would occur within five months of the next general election due to be held under that Act.

Clause 8: Amendment of s. 83—Notice of ordinary or special meetings

This amendment will remove the requirement for a chief executive officer to consult with the principal member of the council when the chief executive officer is considering whether to indicate to members that a particular document or report could be considered as being a document or report that should be dealt with in confidence under Part 3 of Chapter 6.

Clause 9: Amendment of s. 84—Public notice of council meetings

This amendment will make it clear that a chief executive officer may give public notice of a meeting of the council in any manner that the chief executive officer considers appropriate.

Clause 10: Amendment of s. 87—Calling and timing of meetings

This amendment will remove the requirement for a chief executive officer to consult with the presiding member of a committee when the chief executive officer is considering whether to indicate to members of the committee that a particular document or report could be considered as being a document or report that should be dealt with in confidence under Part 3 of Chapter 6.

Clause 11: Amendment of s. 88—Public notice of committee meetings

This clause will make it clear that a chief executive officer may give public notice of a meeting of a council committee in any manner that the chief executive officer considers appropriate.

Clause 12: Amendment of s. 90—Meetings to be held in public except in special circumstances

It is to be made clearer that a council or council committee may only order that a meeting be closed to the public to the extent considered to be necessary and appropriate to receive, discuss or consider in confidence any information or matter listed under subsection (3). The categories of information and matters listed under subsection (3) are to be revised to a certain extent.

Clause 13: Amendment of s. 91—Minutes and release of documents

A council will not be able to prevent the disclosure of an amount or amounts payable by the council under a contract for goods or services supplied to the council after the contract has been entered into by all of the parties to the contract. An order restricting access to a council document (or part of a council document) will be required to be reviewed at least once in every 12 months.

Clause 14: Amendment of s. 92—Access to meetings and documents—code of practice

A council is required to have a code of practice in connection with the operation of Parts 3 and 4 of Chapter 6. The Act currently provides that this code must be reviewed at least once in every financial year. This amendment will provide that a review will now be required within 12 months after the end of each periodic election.

Clause 15: Insertion of s. 93A

The Ombudsman is to be given specific power to conduct a review of the practices and procedures (or of any aspect of the practices or procedures) of one or more councils or council committees under Part 3 or Part 4 of Chapter 6. The Ombudsman may prepare and publish a report on any aspect of the review, and make recommendations to a council or councils.

Clause 16: Amendment of s. 94—Investigation by Ombudsman

Section 94 relates to an investigation of a complaint that a council has acted unreasonably under Part 3 or Part 4 of Chapter 6. It is to be expressly provided that the Ombudsman, or the Minister, may publish a report or a part of a report, or a summary of the report, in such manner as the Ombudsman or Minister (as the case may be) thinks fit.

Clause 17: Insertion of s. 94A

The chief executive officer is, so far as is reasonably practicable, to make available for inspection on the Internet an up-to-date schedule of the dates, times and places set for the meetings of the council and council committees.

Clause 18: Amendment of s. 159—Preliminary

Subsection (5) of section 159, which sets out some criteria to be taken into account if a council is deciding on a rebate that is not specifically fixed under the Act, is appropriately applied to certain paragraphs of section 166 (but not otherwise). It is therefore to be repealed and its contents inserted into section 166.

Clause 19: Amendment of s. 166—Discretionary rebates of rates

A council will be able to grant a rebate of rates to provide relief against a substantial change in rates due to a redistribution of the rates burden because of a change to the basis or structure of the council's rates. A rebate under this provision may be granted for a period of up to three years.

Clause 20: Amendment of s. 171—Publication of rating policy

This amendment will require a council to send out an abridged or summary version of its rating policy with its *first* rates notice for each financial year. The current provision requires the document to be sent out with *each* notice.

Clause 21: Amendment of s. 188—Fees and charges

The Act is to provide that a fee for providing information or materials, or copies of council records, is not to exceed a reasonable estimate of the direct cost to the council in providing the relevant material.

Clause 22: Amendment of s. 193—Classification

Section 193 of the *Local Government Act 1999* declares local government land to be community land, subject to various exceptions. One exception relates to roads within the area of the council. However, this exception should not apply to land that formed part of a road that is vested in a council after it is closed, unless the council determines otherwise. This is to be made clear by an amendment to section 193. There has also been some uncertainty as to whether easements and rights of way are local government land and hence community land (because 'land' is defined to include, accordingly to the context, an interest in land). It was never intended that such interests be included as 'community land' under the Act. An amendment will therefore specifically provide that 'local government land' does not include easements or rights of way for the purposes of the section. As there is an argument that easements and rights of way have been included under the section since 1 January 2000, it is appropriate that the amendment be taken to have come into operation on that date.

Clause 23: Amendment of s. 196—Management plans

This is consequential on the amendment to section 205.

Clause 24: Amendment of s. 201—Sale or disposal of local government land

This amendment will allow a council to grant an easement or right of way over community land or part of a road without revoking its classification as such.

Clause 25: Amendment of s. 205—Management plan

The time for the preparation of a management plan for the Adelaide Park Lands is now to be five years, being the period that applies to other community land under the Act.

Clause 26: Amendment of s. 221—Alteration of road

Section 221(3)*(b)* of the *Local Government Act 1999* relates to the alteration of a road so as to permit vehicular access to and from adjoining roads. However, it only applies if the alteration is indicated on a plan approved under the *Development Act 1993*. It is preferable to relate the alteration to the approval of the actual development.

Clause 27: Amendment of s. 223—Public consultation

This amendment revises the circumstances under section 223 of the *Local Government Act 1999* where authorisations or permits for the use of roads must be subject to public consultation processes. The amendments will bring the section into line with the circumstances that currently apply under the regulations (pursuant to the power prescribed by subsection (1)*(c)*).

Clause 28: Amendment of s. 246—Power to make by-laws

A council will now be able to provide for a continuing offence for a breach of a by-law on a continuing basis.

Clause 29: Amendment of s. 250—Model by-laws

This amendment will ensure that *amendments* to model by-laws are published in the *Gazette* and subject to disallowance under the *Subordinate Legislation Act 1978*.

Clause 30: Amendment of s. 254—Power to make orders

Clause 31: Amendment of s. 257—Action on non-compliance

These amendments correct clerical errors.

Clause 32: Amendment of Sched. 2

These amendments rationalise the operation of clauses 14 and 15, and 31 and 32, of schedule 2 of the *Local Government Act 1999*.

Clause 33: Amendment of Sched. 4

The annual report of a council is to be required to include a copy of its most recent information statement under the *Freedom of Information Act 1991*, a report on the use of the confidentiality

provisions of the Act, and a report on FOI applications during the relevant financial year.

Clause 34: Amendment of Sched. 5

These amendments make specific provision with respect to the accessibility of the council's FOI information statement and policy documents.

The Hon. R.D. LAWSON secured the adjournment of the debate.

CONTROLLED SUBSTANCES (CANNABIS) AMENDMENT BILL

Received from the House of Assembly and read a first time.

HIGHER EDUCATION COUNCIL

The Hon. T.G. ROBERTS (Minister for Aboriginal Affairs and Reconciliation): I lay on the table a copy of a ministerial statement on the Higher Education Council made today by the Hon. Jane Lomax-Smith in the other place.

ADJOURNMENT

At 6.52 p.m. the council adjourned until Monday 2 December at 2.15 p.m.