LEGISLATIVE COUNCIL

Thursday 24 March 1983

The PRESIDENT (Hon. A.M. Whyte) took the Chair at 2.15 p.m. and read prayers.

MINISTERIAL STATEMENT: STOJAN SOLAR

The Hon. C.J. SUMNER (Attorney-General): I seek leave to make a brief statement.

Leave granted.

The Hon. C.J. SUMNER: On Tuesday this week, in answer to a question from the Leader of the Opposition, I undertook to inform the Council at the first opportunity of the action I intended to take in the case of Mr Stojan Solar. Honourable members will recall that Mr Solar was convicted by a Supreme Court jury on 8 March of the manslaughter of Mr Alexander Anisimoff. On 15 March, Mr Justice White sentenced him to two years imprisonment, suspended on his entering into a $1 000 bond to be of good behaviour for three years. A non-parole period of six months was imposed.

I have received the report I sought from the Crown Prosecutor, Mr Martin, and have decided that the Crown should appeal against the adequacy of the sentence. Arrangements have been made for the appeal papers to be filed this afternoon. In the circumstances of the appeal now being underway, it would be premature for me to make any comment on the other matters raised by the Hon. Mr Cameron in his question on Tuesday. These will be addressed following the result of the appeal.

QUESTIONS

PRISONERS

The Hon. M.B. CAMERON: Yesterday in this place I asked the Attorney-General whether the Government was given prior warning of yesterday's riot and, if so, by whom? The Attorney, as I understand it, was unaware of the situation and promised to obtain an answer and bring back a reply. In view of the seriousness of the situation at Yatala, I am sure that the Attorney would have discussed this matter with the Chief Secretary and, accordingly, I again ask whether the Government or the Chief Secretary was given warning of the likelihood of yesterday's occurrence and, if so, when, and by whom.

The Hon. C.J. SUMNER: As I indicated yesterday, I will obtain the information for the honourable member and bring down a reply.

The Hon. M.B. CAMERON: I seek leave to make a brief explanation before asking the Attorney-General another question about the Yatala prison unrest.

Leave granted.

The Hon. M.B. CAMERON: Last evening on *Nationwide* interviews with two responsible South Australians (namely, the Ombudsman, Mr Bakewell, and Mr Kidney of the Offenders Aid and Rehabilitation Society) indicated that the Government or at least the Chief Secretary had clear warning that the situation at Yatala had deteriorated badly and that a dangerous situation was likely. In fact, the text of the interview was as follows:

> Question—Ray, is there any doubt in your mind whether the authorities were clear about the danger signals you were giving them?
>
> Mr Ray Kidney—No. I made it very clear on two occasions that we were greatly concerned about what could happen at Yatala.
>
> Question—Did you spell out to the authorities what might happen?
>
> Kidney—Yes. We had heard from the prisoners that there was the likelihood of trouble of the nature which eventually happened. And that was spelt out to the departmental people.
>
> Interviewer—The Government also received clear warning from the State Ombudsman, Bob Bakewell, who in his last report referred to the prison conditions as Dickensian.
>
> Mr Bakewell [the Ombudsman]—We had written to the Minister in December, with a copy to the Premier, saying that we saw the situation as somewhat explosive. And we did that on 13 December. And I even spoke to the Minister as recently as 21 February and drew his attention to the letter and the dangers we saw there, and the Minister virtually said, 'Well, we will have to take a risk on the situation.'
>
> Question—Those were his words were they—'We'll have to take a risk'?
>
> Mr Bakewell—His actual words were, 'We will have to take a risk that nothing serious will happen until the Touche Ross Report is completed.'

It is quite clear from these comments, and from earlier comments from the Prisoners Action Committee, that comments and warnings were given to the Chief Secretary and that they were ignored. In the case of one of these warnings, the possibility of Yatala being burnt down was explicitly stated. I ask the Attorney-General this very specific question, and I would be grateful for a very specific response: did the Chief Secretary, who acknowledged in Parliament yesterday that he had received warnings about the Yatala situation, inform either the Attorney-General, as the State's chief legal officer, or the Government, of the warnings he had received from Mr Bakewell, Mr Kidney and Mr Lehmann (Prisoners Action Committee).

The Hon. C.J. SUMNER: I will obtain that information for the honourable member and bring back a reply.

The Hon. M.B. CAMERON: I am a little unclear as to why the Attorney-General has to seek information when my question was directed specifically to him. Surely he must know whether he received these warnings! Did the Chief Secretary inform either the Attorney-General or the Government of the warnings he received from Mr Bakewell, Mr Kidney and Mr Lehmann?

The Hon. C.J. SUMNER: The honourable member made a number of allegations in his explanation to this Council. As they are allegations relating to the actions of the Chief Secretary about which I will have to obtain information, I think it is perfectly legitimate for me to obtain information from the Chief Secretary.

The Hon. M.B. Cameron: Do you have to obtain information on whether he gave you information?

The Hon. C.J. SUMNER: No, I have to obtain information about the allegations made by the Leader in his explanation to this Council. The Leader has made a number of assertions, as he would realise—

The Hon. M.B. Cameron: It wasn't I who made the assertions: it was Mr Bakewell, Mr Kidney and Mr Lehmann.

The Hon. C.J. SUMNER: The honourable member made certain allegations in his explanation given prior to asking his question. I undertake, as I did yesterday, that I will obtain information for the honourable member about the Chief Secretary's role in relation to the matter. I said yesterday that I would bring back information and I say again today that I will bring back information relating to the statement that the honourable member has made. I have no recollection of the Chief Secretary indicating to me that there had been specific complaints from those people mentioned in the honourable member's question.

The Hon. C.M. HILL: Does the Attorney-General, as Government Leader in this place and as the State's Chief Law Officer, agree with the view expressed in Parliament yesterday and the *Advertiser* this morning that the only reason for the riots and fires at Yatala on Tuesday was the frustration experienced by prisoners over the parole system? If the Chief Secretary is correct and the parole system is the only cause of prisoners' concern, why did the Govern-

ment not indicate to the prisoners that it was planning changes to the parole system? Does he agree that to effect any change to the parole system now will be seen as a direct response to the prisoners' action and set a precedent whereby prisoners who have grievances about parole or any other matter will best achieve results by burning or damaging the penal institutions in which they are held?

The Hon. C.J. SUMNER: I do not recollect the Chief Secretary saying that the only reason for the riots and fires at Yatala was the parole system. That is the assumption in the honourable member's question. I do not believe that that assumption is correct. While the Chief Secretary has indicated certain concern about the parole system, which he outlined fully yesterday, he also indicated that no firm decisions had been taken by the Government on the future of the parole system. Let us face it: many suggestions have been forthcoming on parole, one of which, of course, was the Mitchell Committee suggestion that the question of parole should remain with the Judiciary, so that the judges and the sentencing judge determine the question of parole. That recommendation has not been accepted by successive Governments; nevertheless, it is another means of addressing the question of parole.

The Hon. K.T. Griffin: That was subsequent to the sentence—not to do it at the time of sentencing.

The Hon. C.J. SUMNER: The suggestion was that the judges be responsible for parole rather than the Parole Board having the responsibility. That proposition has not been accepted by successive Governments. I merely indicate to the honourable member that there are different views on the question of parole. Yesterday, the Chief Secretary merely indicated that he was concerned about the parole system in the respect that, when the Judiciary fixes a non-parole period, as far as the prisoners are concerned, at the end of that period they should be entitled to parole. Whether or not that feeling is justified is beside the point. The fact is that the prisoners get that impression when a non-parole period is fixed: they assume at that time that they are entitled not only to apply for parole but also to be granted parole.

In fact, resentment has developed, because some prisoners who apply for parole at the expiration of the non-parole period are not granted parole. Their expectations that have been built up because of their understanding of the judge's sentence are smashed when their application to the Parole Board is not granted. I am merely indicating that that difficulty has occurred in regard to non-parole periods. I understand that interstate it is generally the view of the Parole Board that prisoners are released at the end of their fixed non-parole period. That is what the Chief Secretary was pointing out. He was merely indicating the difficulties, which I believe that people should recognise. Parole is a vexed topic, as I indicated this afternoon to the council. No firm decision has been taken, but I have outlined some of the options that should be considered.

INCEST

The Hon. ANNE LEVY: I seek leave to make a brief explanation before asking the Minister of Health a question about incest.

Leave granted.

The Hon. ANNE LEVY: Honourable members may be aware that yesterday the Rape Crisis Centre conducted a phone-in on incest, having issued invitations to any people, who had at any time in their lives been involved in an incident concerning incest, to phone in and give details. Complete confidentiality was assured to those who phoned in.

I understand that the response was enormous and that over 100 phone calls were received yesterday from women reporting incidents of incest at some time in their lives. That response was so great that the Rape Crisis Centre has extended the incest phone-in until today and is receiving a large number of phone calls today also. Most of the stories obviously involved incest which occurred a number of years ago. The vast majority of cases of incest relate to young children, commonly girls between the ages of seven and 14 years. The cases of incest usually involved the father, although sometimes other male members of the family such as uncles, step-fathers or even older brothers are involved.

The incidence of incest which has been reported by this phone-in is very distressing. I am sure that all members of the Council would appreciate the concern felt in many quarters at the response being received by the Rape Crisis Centre. The question now arises as to what can be done about the incidence of incest. Obviously, it is not a matter of changing the law: incest is completely prohibited legally. Whatever the law may state, incest is obviously occurring or has occurred to a considerable extent in the South Australian community.

I feel that the approach must be in terms of counselling and help for the women and girls concerned, and the Rape Crisis Centre is obviously attempting to do what it can in this regard. If the Minister of Health receives a report from the Rape Crisis Centre as a result of the phone-in yesterday and today, can he say whether he will look sympathetically at it to see what counselling and other support services it may be possible to offer those victims of acts of incest?

The Hon. J.R. CORNWALL: I was somewhat surprised, but certainly not staggered, by the response to the incest phone-in. There has been a growing feeling among many people that the level of incest in the community is substantially higher than some of us previously thought. Incest is dreadful and is one of those hidden problems in the community that very rarely surface unless organisations such as the Rape Crisis Centre take the trouble to assist and conduct surveys to obtain an idea of the level of incest in the community. The Rape Crisis Centre is substantially funded by the South Australian Health Commission. When the phone-in is completed it is my intention to ask my officers to initiate confidential discussions with staff and volunteers at the centre. I give the honourable member and Parliament a firm undertaking that I will take any action necessary or possible to lower the incidence of incest and to assist in the counselling of women and girls who may be victims of what I regard as a most heinous offence.

RIVERLAND CANNERY

The Hon. K.T. GRIFFIN: I seek leave to make a brief explanation before asking the Minister of Agriculture a question about the Riverland cannery.

Leave granted.

The Hon. K.T. GRIFFIN: Yesterday, the Minister of Agriculture replied to some of my questions about the Riverland cannery; he did not answer some. He also said that the current estimate of loss is still in the region of $6 000 000 to $8 000 000 per annum and that the officers were unable to identify the areas of most significant losses. Prior to the November 1982 election, the Government was advised by the receiver-managers that the loss for 1982, including interest and depreciation, was likely to be about $3 500 000, and for 1983 perhaps about the same figure. At the same time, the information received by the Government was that all sections of the operations of the cannery were contributing to the losses. To my knowledge, the receivers had been unable to

make any assessments of where the losses were occurring in a plant that was operating at about half its capacity.

First, are any accounts available for the operation of the cannery for the year ended 31 December 1982? If the answer is 'Yes', will they be tabled? Secondly, are there any projections for the accounts for 1983? If so, will they be tabled? Thirdly, will the Minister consult with the receiver-managers and ascertain where losses are being incurred, and make that information available to the Parliament?

The Hon. B.A. CHATTERTON: When I replied yesterday to the honourable member's question on the Riverland cannery I made a mistake in terms of the losses, because it was my impression that the losses referred to by the receiver-manager related to the first half of the 1982-83 financial year. That is why I gave the figure as an estimate for the whole of that year. I have had discussions with the receiver-manager since then and he has informed me that the losses referred to were on a calendar year basis, which is the period of accounting for the Riverland cannery.

Under that system the loss for 1982 was about $4 500 000—more than the honourable member has indicated, but less than I mentioned in my reply yesterday. The accounts have not been fully audited. Preliminary accounts have obviously been prepared, as he could give me that figure. He will, of course, give those accounts to the Treasurer when they have been audited. I am not in a position to say whether the Treasurer will table the accounts or not. So that covers the first question.

The Hon. K.T. Griffin: Any projections for 1983?

The Hon. B.A. CHATTERTON: I have not received any projections for 1983 but, no doubt, the receiver-managers have prepared budgets for 1983.

The Hon. K.T. Griffin: Will the Minister consult with the receiver-managers about where losses have been incurred?

The Hon. B.A. CHATTERTON: I have held discussions with the receiver-managers both last year and this year. I have tried to get exact details as to where the losses are occurring. Whilst they are able to say in general terms what the honourable member says—that all areas are losing money—there is no information as to where the major losses are and whether it can be restructured in any way to avoid those losses.

That is one of the tasks for this steering committee—to work with the receiver/managers to try to identify more clearly where these problem areas are and whether there can be any modification of the operations of the cannery so that it can operate on a break-even basis or reduce losses. That is certainly part of the area that will be examined by the steering committee.

MARTIN HOUSE

The Hon. I. GILFILLAN: I seek leave to make a brief statement before asking the Minister of Health a question about Martin House, an annexe of Royal Adelaide Hospital.

Leave granted.

The Hon. I. GILFILLAN: Martin House Annexe is expressly for patients from rural South Australia, the Northern Territory and, occasionally, I understand, from New Guinea. It is an annexe to the Royal Adelaide Hospital for cancer patients who are receiving either radiotherapy or chemotherapy but who do not need to be hospitalised. The Anti-Cancer Foundation owns the property, but it is, I understand, staffed by R.A.H. There are 14 beds at present, plus two emergency beds located upstairs in the main building, but these are not very suitable. These beds can be used by patients or by their relatives, and as at 21 March 1983 there was a waiting list of 20 patients.

As well as these 20 patients on the waiting list, there were others who elected to find their own accommodation as they were unable to wait. This caused major problems for many patients at a time when they were already under considerable stress. It has been suggested that at any time the number of patients actually requiring accommodation could be double the number on the official waiting list. The occupancy rate figures which R.A.H. provides are deceptive as they are taken, I understand, over 365 days a year, yet the Radiology Department does not operate on weekends or public holidays, when patients usually go home.

Also, chemotherapy patients come in and out depending on the frequency of their treatment. It has been suggested to me that, when a count is taken, it is of patients only, and the relatives or friends who are encouraged to share the accommodation and who may be in the building are excluded from the count. The rooms are in pairs, so that if a female patient is occupying a bed the vacant bed in the room would not be available for a male, and vice versa. Also, it is not recommended that patients seek hotel or motel accommodation. Frequently, some supervision is needed, as many patients are unwell in the period immediately after treatment, and all need company and support at this very difficult time.

The Anti-Cancer Foundation wants to build another block of five motel units, I have been advised, each with two beds. It would match a wing recently completed. However, the foundation needs an assurance that R.A.H. will provide staff. My question to the Minister is in two parts. Does the Minister agree that there is a shortage of accommodation of the type provided at Martin House? Also, what steps will he take so that this important requirement for patients from remote areas will be adequately provided?

The Hon. J.R. CORNWALL: I think I met with representatives of the Anti-Cancer Foundation fairly soon after I became Minister of Health. At around that time I was seeing up to six or seven deputations a day, apart from being briefed by my officers and staff. To the best of my recollection, the matter that the honourable member is canvassing was not raised with me. I cannot say that with any dogmatism. Perhaps it was—I do not recall.

I am a little surprised that, apparently, they have now approached the Hon. Mr Gilfillan. Certainly, there is no dispute as far as I am concerned. There has never been any suggestion that I have denied them funding or that I would not examine anything that they cared to put to me. I am certainly aware of Martin House, because I had something to do with it when I was in Opposition. I have not had an opportunity specifically to discuss the problem if, indeed, one has arisen since I became Minister, but I most certainly will if that is the case.

As to whether I agree that there is a shortage of accommodation, I cannot comment, but I will look into the matter urgently and bring down a reply.

The Hon. I. Gilfillan: The foundation didn't approach me—I approached them, because a patient from Mount Gambier who had tried to get in said that she could not get in. I then started to investigate the matter.

The Hon. J.R CORNWALL: The other point is that I am not very happy with the Isolated Patients Travel and Assistance Scheme, because we have had considerable difficulties with it, as did the previous Government. There are a number of anomolies, including the arbitary cut-off point of, I think, 200 kilometres. If a person lives within that area, even though his residence is quite clearly outside the metropolitan area, he does not qualify for the scheme. That is another matter that I will be taking up with my Federal colleague, Dr Blewett.

Regarding the steps that I can take concerning Martin House, if there is a critical shortage of accommodation and

the Anti-Cancer Foundation is looking for assistance (and it will be on that basis, because it does a significant amount of its own fundraising), I will be pleased to examine any proposal put forward. If it has merit (and I have little doubt that it would), I will certainly provide any assistance that I can.

PRISONERS

The Hon. L.H. DAVIS: Will the Attorney-General say whether the Government received a warning from the Ombudsman, Mr Bakewell, regarding the likelihood of serious unrest at Yatala Labour Prison? Was that matter discussed by the Government and what action, if any, was taken on receipt of Mr Bakewell's advice?

The Hon. C.J. SUMNER: That is the same question that the Hon. Mr Cameron asked earlier in Question Time today.

The Hon. M.B. Cameron: You have got the answer now.

The Hon. C.J. SUMNER: That may well be, and I am not surprised, because the Chief Secretary is located in the House of Assembly, which is only next door.

The Hon. M.B. Cameron: It wasn't provided by the Chief Secretary.

The Hon. C.J. SUMNER: That is all very well, but that is where the Chief Secretary is located. I have undertaken to provide members opposite with the information that they require on that topic. I have given the Council certain material based on my understanding of the position. As a result of certain statements that the Hon. Mr Cameron alleged were made last night, he has now asked another series of questions additional to those that he asked yesterday. I said yesterday that I would obtain answers for him and bring down the replies. I have said today that I will obtain replies to those questions. I repeat, for the Hon. Mr Davis's benefit, that I will obtain a reply.

The Hon. L.H. DAVIS: I desire to ask a supplementary question. Is the Attorney-General categorically denying that Cabinet received a warning from Mr Bakewell on likely prison unrest at Yatala Labour Prison?

The Hon. C.J. SUMNER: I think it would be obvious to the honourable member that I am not categorically denying or affirming anything. I have given an undertaking that I will obtain information. I am trying to be helpful to the honourable member. I feel sure that the honourable member and his queries will be quite satisfactorily satisfied when I obtain the information and bring down a reply to the Council.

The Hon. R.I. LUCAS: I seek leave to make a brief explanation before asking the Attorney-General a question about prisons.

Leave granted.

The Hon. R.I. LUCAS: Yesterday in Parliament and today in the *Advertiser* the Chief Secretary stated that one of his major concerns with the parole system was the fact that prisoners were not being automatically released at the end of a non-parole period. As the Attorney is probably aware, the concept of a mandatory non-parole period was introduced by the previous Liberal Government following an amendment to the Prisons Act in 1980.

The expiry date of a non-parole period was never intended to be the automatic date for release on parole; rather, it was intended to be the minimum period that a prisoner could or should serve. I understand from what the Attorney has said in reply to earlier questions that the Government has not yet made up its mind on the matter, but I ask whether the Attorney personally supports moves to allow for automatic release on parole at the end of a non-parole period?

The Hon. C.J. SUMNER: It might surprise the honourable member that I have no intention of answering that sort of question.

The Hon. L.H. Davis: You haven't answered any today.

The Hon. C.J. SUMNER: Nevertheless, I have been extremely helpful.

The Hon. Frank Blevins: And very courteous.

The Hon. C.J. SUMNER: Yes; I have been very courteous to members opposite. I provided the Hon. Mr Hill with certain information that he was apparently lacking in relation to the various options that are available under the parole system. In relation to the Hon. Mr Cameron—

The Hon. C.M. Hill: Only one option.

The Hon. C.J. SUMNER: I said that there were three options. In fact, I outlined them, and I will do so again if the honourable member wishes. First, there is the judicial supervision of parole, which is the present system used in this State, without any fixed non-parole period; secondly, there is a system of parole with a parole board, and there is also a fixed non-parole period. They are the three options that I outlined for the Hon. Mr Hill. I indicated to him that, yesterday in another place, the Chief Secretary expressed his concern, quite rightly, about the operation of the parole system. It is clearly a matter that will have to be considered by the Government.

The Hon. R.I. Lucas: Do you have a view, though?

The Hon. C.J. SUMNER: I will get to the Hon. Mr Lucas in a moment. The Hon. Mr Hill asked me about parole and I informed him of the position. I was very helpful to the Hon. Mr Cameron who, today, seems to be behaving like a three year old who has just been given his first icecream.

The Hon. M.B. Cameron: All you said was that you didn't know.

The Hon. C.J. SUMNER: All I said was that they are matters within the knowledge of the Chief Secretary. The Leader asked questions about the Chief Secretary's state of mind. In so far as the Leader has asked about my state of mind or what I knew, I have provided him with an answer.

The Hon. M.B. Cameron: You said that you did not know.

The Hon. C.J. SUMNER: That is not exactly right.

The Hon. M.B. Cameron: You said that you had no recollection.

The Hon. C.J. SUMNER: I said that I had no personal recollection of the specific complaints referred to by the honourable member, or words to that effect. However, I provided the Hon. Mr Cameron with the information that I had and said that I would obtain the information that is within the knowledge of the Chief Secretary, who is the Minister responsible for prisons. I undertook to do the same in relation to the Hon. Mr Davis's question. The Hon. Mr Lucas's question relates to the same question asked by the Hon. Mr Hill, that is, the question of parole. The honourable member would know that Governments have an attitude on parole. When the Government's attitude towards parole is determined, I will advise the Council of its view.

The Hon. H.P.K. DUNN: Will the Attorney-General propose to his colleague the Chief Secretary that, instead of releasing prisoners from gaol early as a result of the violence and fires at Yatala on Tuesday, they be sent to prisons interstate?

The Hon. C.J. SUMNER: I will take up that matter with the Chief Secretary, just as I have said that I will take to the Chief Secretary every other suggestion offered by honourable members in this Council.

I am sure, however, that the honourable member's suggestion will be met by howls of laughter from interstate prison authorities. I do not have detailed information about whether prisoners can be accommodated interstate. However, there is now provision for transfer of prisoners interstate which was passed during the previous Parliament, having been introduced by the honourable member's colleague, the

Hon. Mr Griffin, as a result of many years of hard work on the Standing Committee of Attorneys-General. That is a reciprocal arrangement for the transfer of prisoners. However, I cannot, in my wildest imagination—

The Hon. K.T. Griffin: That's pretty wild.

The Hon. C.J. SUMNER: It is not as wild as the Hon. Mr Dunn's insistence. I cannot imagine that other States would want to accept South Australian prisoners, given the difficulties which they no doubt have in the prison systems in those States, and I doubt whether South Australia would be in a position to accept large numbers of prisoners from other States, although I understand that we have some reciprocal arrangements.

The Hon. H.P.K. Dunn: You're giving them a reward for being naughty.

The Hon. C.J. SUMNER: It is not, as the Hon. Mr Dunn has just said, a question of rewarding anyone for being naughty. The honourable member's Party was in Government for three years, but it did not build a brand spanking new prison.

The Hon. K.T. Griffin: But it tried to get a new remand centre.

The PRESIDENT: Order!

The Hon. C.J. SUMNER: Members opposite talk about a remand centre, yet the Corcoran Labor Government had picked a site, and plans had been determined, for a remand centre at Angle Park.

The Hon. K.T. Griffin: You hadn't gone any further than that.

The Hon. C.J. SUMNER: That remand centre would have been built had the Labor Party won the 1979 election because funds had been allocated for it and, as I recall, the site had been selected and preliminary work done on a detailed plan before 1979. Therefore, honourable members opposite cannot talk about building more accommodation for prisoners in South Australia because they did nothing about that matter while in Government. Now, not having done it, one of the Liberal Party's back-benchers comes up with the ludicrous proposition that we send prisoners interstate. I am perfectly happy to refer the honourable member's suggestion to the Chief Secretary for comment. However, I repeat that I would be surprised if any other State had excess capacity in its prisons to which our prisoners could be sent, just as I have indicated that it would be difficult for us, except in the case of the limited arrangement that we have with the Northern Territory, to accept prisoners from other States. Nevertheless, in the same co-operative spirit with which I have approached this matter this afternoon, I will refer the honourable member's question to the Chief Secretary.

BUSH FIRES

The Hon. R.C. DeGARIS: I seek leave to make a brief explanation before asking the Attorney-General, as Leader of the Government in the Council, a broadly based question about bushfires.

Leave granted

The Hon. R.C. DeGARIS: Following the recent disastrous fires both Federal and State Governments have made available considerable sums of money for relief. The public of Australia and overseas contributors donated large sums of money for relief and assistance of the unfortunate victims of those fires. It is possible that some of the people who receive support from these funds, whether from public or Government donations, may also receive substantial funds from subsequent actions they take. One has only to look at payments made by the Victorian S.E.C. after other disasters in Victoria to understand the problems that may develop in these circumstances.

I could explain my question further and supply more information, but I think that what I have said is a sufficient illustration for the Attorney-General to answer my questions. Will the Attorney-General say whether the Government is aware of this problem which may evenuate and, if not, will it examine this problem and, while doing so, will it consider whether legislation may be required to get repayments from those people who gain repayments from some action that they may take?

The Hon. C.J. SUMNER: The questions that the Hon. Mr DeGaris raises are of considerable importance in the aftermath of the bushfires and in light of the consequences that may flow from them. They are serious questions that I believe should be addressed by the Government. Therefore, I will obtain information for the honourable member and bring back a reply.

PRAWN FISHING INDUSTRY

The Hon. G.L. BRUCE: Will the Minister of Agriculture say whether there is any truth in the statement made last night on the A.B.C. news that, if the Government goes ahead with the management of the prawn fishing industry, fishermen in Investigator Strait are likely to lose their livelihoods?

The Hon. B.A. CHATTERTON: I was surprised to hear the statement made by a prawn fisherman who fishes in Investigator Strait because the man concerned has a rock lobster licence which has been held for him while he has been involved in that fishery. Therefore, it is not as though he is being denied his livelihood by any change in the management plan for the Investigator Strait prawn fishery. That comment also applies to the other prawn fishermen concerned.

I will give some background on the Investigator Strait prawn fishery. Most honourable members would be aware of the long legal wrangle between the State and the Commonwealth about ownership of these waters. In February of this year it was finally agreed by the Commonwealth, under new legislation concerning fisheries, that Investigator Strait should be included within State waters. At that stage two permit holders had been given licences by the Commonwealth to fish the area—against, I might say, the wishes of the State Department of Fisheries. So, it was important to review the situation in the light of the deteriorating prawn fishery in this State.

The figures that are available for the Investigator Strait prawn fishery speak for themselves in terms of how that fishery has declined and how it has proved to be unviable. In 1976 the strait was providing 147 000 kilograms of prawns each season, which is, of course, quite a significant and quite worthwhile economic proposition. By 1982 the catch figure had declined to 37 000 kilograms of prawns each season, and the ratio of catch to effort, which I think is accepted by most people in the fishing industry as a fairly crucial economic indicator of viability, showed a decline from 33.8 kilograms an hour in 1976 to 14.2 kilograms an hour in 1982.

That, by way of comparison, is against a figure of 40.5 kilograms an hour in the St Vincent Gulf prawn fishery. Therefore, that figure of 14.2 kilograms causes great concern. During discussions that had been held with fishermen in Investigator Strait over a number of years, they have said that 31.5 kilograms an hour is the minimum amount needed for an economic fishing operation in the strait.

In addition to those problems of viability related to the catch rate per hour, the biologists concerned with the fishing

industry have recommended that the eastern end of Investigator Strait should be permanently closed, because that area is now being recognised as an important nursery ground for the strait fishery and for the St Vincent Gulf fishery. That closure of the eastern end would involve 60 per cent of the catch of the two remaining fishermen.

I believe that those figures show quite conclusively that the fishery as it is presently structured is certainly not an economic operation. Therefore, it was decided, after discussions with the Department of Fisheries, that we should implement a new management plan for Investigator Strait in which the eastern end of the strait would be closed permanently because of its importance as a nursery ground. We also decided that the rest of the strait would be closed to the other two permit holders for two years to ascertain whether there would be recovery of stock and whether that action would result in a viable fishery in the future. We guaranteed that, if that proved to be the case, the two people who currently fish in that area would be given first priority to re-enter the fishery if it proved to be a viable operation.

It seems to me that that is a rational and logical way of tackling a very severe problem in that fishery. It is surprising that one of the fishermen concerned should paint a picture of economic ruin for himself when, in fact, the fishery is on the brink of disaster in any case and there is an alternative fishery in which he can operate in the meantime.

LEGAL SERVICES COMMISSION

The Hon. K.T. GRIFFIN: Has the Attorney-General a reply to a question I asked on 16 March about the Legal Services Commission?

The Hon. C.J. SUMNER: The Government has not made any changes to the amount of money appropriated for legal aid in the 1982-83 Budget. The $607 000 appropriated will be paid to the Legal Services Commission. The Government has not made additional funds available to the Legal Services Commission to finance community legal aid centres beyond the amount provided in the 1982-83 Budget.

The surplus funds held by the commission have been accumulated over several years. Portions of the reserve are held to meet future payments to private legal practitioners who have undertaken work on behalf of the commission's clients. The Director, Legal Services Commission, has advised me that the surplus funds held in respect of the State account was $383 813 as at 1 July 1982: $118 875 of this amount was required for payment to private legal practitioners, leaving a net cash surplus of $264 938.

The appropriation for legal aid in 1981-82 was $550 000. However, only $400 300 was paid to the commission, the balance being redirected to meet other funding priorities of the former Government. The $100 000 requested to be paid by the Legal Services Commission to assist in funding the Royal Commission on Edward Charles Splatt is less than the funds withheld by the previous Government last financial year in respect of legal aid. In addition, the Government has advised the commission, subject to $100 000 being made available, that sympathetic consideration will be given to subsequent requests for extra funds.

Consideration is also being given by the Legal Services Commission to using some of the surplus for additional funding to Country Legal Centres. As mentioned, the future funding of legal aid services is under consideration by the Government at the moment in the light of the change in the Federal Government.

RAMSAY TRUST

The Hon. R.I. LUCAS: Has the Attorney-General a reply to a question I asked on 15 March about the Ramsay Trust?

The Hon. C.J. SUMNER: As the Premier said on Tuesday 15 March, a series of investment advisers of all sorts have commented on this proposal over a period of time. Some have said that it would succeed and some have said that it would not.

ABORIGINAL HEALTH

The Hon. H.P.K. DUNN: I seek leave to make a brief explanation before asking the Minister of Health a question about Aboriginal health.

Leave granted.

The Hon. H.P.K. DUNN: Three weeks ago, in the company of the member for Eyre, I visited the Aboriginal settlements of Indulkana, Fregon, Amata and Yalata. While at Amata, I observed what appeared to me to be a very serious problem—petrol sniffing by teenage Aborigines. When travelling through the settlement in a Toyota vehicle, we very nearly ran over a boy of about 15 years of age, who was at the time sniffing petrol, from a cut-off Coke can. We saw at least six other children carrying out the same practice, and, to use an expression, they appeared to be 'high as kites'.

Petrol, from my observations and knowledge, is very dangerous when inhaled, and I cite the warning labels on some 200-litre drums. There are specific warnings about the inhaling of fuel improvers manufactured from coal, that is Benzine, in regard to lung damage and other physiological damage. In the light of this fact, is the Minister aware of the practice of petrol sniffing by the people I mentioned? Does he consider it to be dangerous? If so, what steps is his department taking to rectify the matter?

The Hon. J.R. CORNWALL: First, might I say that it is not a department but the Health Commission. I am not being pedantic, but we should make the distinction between the way in which a department and the commission operate. That is not really relevant to the question that the honourable member raised. I am aware that there is a substantial problem in regard to petrol sniffing. There have been several suggestions over a number of years, including the suggestion that the vehicles used by Government employees should be diesel vehicles. That suggestion was not considered to be very practical, because, if diesel only was made available to those settlements, there would be an enormous disadvantage to many of the people who drive petrol cars and utilities of various sizes, shapes and models.

One other suggestion was that a suitable additive could be put in the petrol. Indeed, I believe that the matter was canvassed with the oil companies at one stage (regrettably I cannot remember the technical name of the additive). If the additive was inhaled with the petrol, it would make the person physically ill fairly rapidly. There may be some virtue in that suggestion.

My advice generally is that petrol sniffing is a symptom of a very depressed condition generally throughout that area. If any honourable members have not read the Tregenza Report they most certainly should do so. It indicates that the Aboriginal people in the north-west area generally have very poor health overall—it is really Third World stuff. Most certainly, we would have to dispel the myth that has been promulgated in South Australia over a number of years that this State is rather better than are Queensland, Western Australia, or the Northern Territory—it is not. Limited statistics are available, which suggest that South Australia is certainly no better than is any other State.

I intend (as was stated in our policy document) to do whatever I can to assist the Pitjantjatjara people to establish an independent health service. In fact, I will go to Canberra next Thursday for discussions with my Federal colleagues, the Minister for Health and the Minister for Aboriginal Affairs, to try to obtain firm undertakings from them in regard to Commonwealth funding. In fact, I was talking to a person in Jim Carlton's office immediately before the Federal election. I hope I can complete satisfactory arrangements as early as next week. I would then go to the north-west to talk to the Pitjantjatjara Council.

I hope that in the reasonably near future we will be able to make a major announcement concerning the very distinct upgrading of health services generally in the area. I will certainly have another look at petrol sniffing, in particular, and if I have anything to add I will bring back a further reply.

LEGAL SERVICES COMMISSION

The Hon. K.T. GRIFFIN (on notice) asked the Attorney-General: What were the cash reserves of the Legal Services Commission at 1 July 1981, 1 July 1982, 1 January 1983 and 1 March 1983, respectively?

The Hon. C.J. SUMNER: The accumulated cash surplus of the Legal Services Commission as at the dates indicated is detailed in the following table. I seek leave to have it inserted in *Hansard* without my reading it as it is only of a statistical nature.

Leave granted.

ACCUMULATED SURPLUS FUNDS

Date	Common-wealth	State	Total	Legal Assistance Scheme
1.7.81	56 825	204 137	260 962	570 720
1.7.82	146 591	383 813	530 404	627 969
1.1.83	180 740	583 465	764 205	635 562
1.3.83	−285 816	582 632	296 816	649 319

The Hon. C.J. SUMNER: It must be stressed that the commission maintains its accounts on an accrual basis and an audited figure of reserves is available at the end of each financial year. The reserves stated above include funds to meet portion of the moneys due to private legal practitioners for work undertaken on behalf of the commission's clients. The amount required to meet this obligation in respect of State Government work as at 30 June 1982 was $118 875. This reduced the net surplus to $264 938. The surplus of funds held in respect of the legal assistance scheme are gross amounts which include amounts to be paid to practitioners. By way of information, $501 165 was an outstanding liability to be paid from the scheme as at 1 July 1982.

MEDICAL PRACTITIONERS BILL

The Hon. J.R. CORNWALL (Minister of Health) obtained leave and introduced a Bill for an Act to provide for the registration of medical practitioners; to regulate the practice of medicine for the purpose of maintaining high standards of competence and conduct by medical practitioners in South Australia; to repeal the Medical Practitioners Act, 1919-1976; and for other purposes. Read a first time.

The Hon. J.R. CORNWALL: I move:

That this Bill be now read a second time.

It seeks to repeal the existing Medical Practitioners Act and replace it with legislation appropriate to the practice of medicine in the 1980s. The fundamental purpose of the Bill is to ensure that the highest professional standards of competence and conduct in the practice of medicine are achieved and maintained, thereby ensuring that the community is provided with medical services of the highest order.

The Bill is similar in many respects to that introduced by the previous Government towards the end of the last Parliament. However, several new provisions have been added and these will be canvassed during the course of the second reading explanation. I give due acknowledgment to my predecessor for originally introducing the legislation. In particular, I commend the medical profession for its initiative in seeking many of the changes and its patience in awaiting the legislative outcome of its efforts.

The Government actively campaigned for the introduction of the Bill prior to assuming office and believes it goes a long way towards a re-statement of the high principles and philosophies of the medical profession. The profession of medicine has traditionally occupied a position of pre-eminence in our society, especially in terms of prestige and expert authority. Historians and sociologists have traced the development of medicine into a profession from the disparate collections of healers of early civilisations, through the Renaissance with its new discoveries, to ensuing centuries which saw the further development, reinforcement and dominance of a scientific foundation for the discipline of medicine.

Concurrent with the development of a scientific basis for medicine was the development of medicine into an identifiable occupation, whose members shared a common background of training, who gained the support of the State in being the arbiters of medical work, and whose work gained public confidence and acceptance.

Attempts at formal regulation of healing practices on the basis of a set of credentials had early beginnings. In the Australian context, medical boards were established long prior to Federation. In South Australia, for instance, an enactment in 1844 provided for the appointment of a three-member medical board and for persons 'desirous of being declared legally qualified practitioners to submit their diplomas or other certificates for approval of the board'.

The role and function of medical boards in monitoring medical qualifications and regulating the practice of medicine has thus been long established. However, the last few decades have seen dramatic developments in medical technology throughout the world, accompanied by an explosion in the costs of curative health care. This, together with increasing numbers of practitioners and, in many cases, an unrealistic expectation in respect to prospective income, resulted in members of the profession being faced with challenges to traditional medical ethics and procedures.

A minority of the profession has, unfortunately, responded in a way which has reflected badly on the profession as a whole, the majority of whom espouse high principles. This response, and to a larger extent the impact of the changes themselves, have pointed to the need for a review of the purpose of registration systems and a reappraisal of the role and functions of medical boards, to ascertain whether those systems, roles and functions can adequately keep pace with today's needs and problems.

Registration obliges practitioners to ensure, and entitles the public to believe, that certain standards of competence and ethics will be maintained. In effect, this requires members of the profession to be accountable to the public, as well as to their peers for their actions. It is not just a question, however, of establishment and monitoring of standards by the profession—it is a question of the public's confidence in the system.

Registration boards have an important role to play in terms of the relationship between the public and the profession. They are, in a sense, the interface between the public and the profession. They must be responsive to community needs. By their action, or lack of action, they can have a major effect on the public image of the profession and the public's confidence in it.

To be effective, they must also be provided with legislative powers appropriate to deal with contemporary needs. The Government recognises that the legislation under which the medical board presently functions has long passed the stage where it adequately protects either the public or, indeed, the majority of the profession dedicated to high standards of medical ethics and professional excellence. It is no longer adequate as a means of distinguishing the dedicated from the delinquent or the diligent from the deceitful. The Bill before members today will completely replace the existing legislation.

The first major provision of the Bill envisages a restructuring of the Medical Board. The board will consist of eight members, instead of six as at present. To give practical effect to the Government's and profession's acceptance of the legitimacy of the public interest perspective being brought to bear on the profession, the board will include two non-medical members, one of whom is to be a legal practitioner and one of whom is to be a lay person. For the first time, a specific charter of powers and functions for the board is defined in the legislation. Emphasis is given to the board's role in maintaining high standards of competence and conduct.

The board is given power to establish committees. One important area in which it is envisaged that a committee would be formed is that of education and training. I hope in due course that the committee will deal with the vexed question of continuing education and whether there ought to be some degree of interdependence with annual registration. In some overseas countries, it is a prerequisite for annual registration that doctors produce evidence of a minimum number of hours spent on refresher or further education programmes. I am not immediately attracted to such stringent requirements and would seek the guidance and assistance of the profession on the matter.

An important initiative in the Bill is the power for the board to deal with situations where the competence of a doctor is in question. It may be that competence in a particular facet only is concerned; for example, a declining competence in the performance of certain surgical operations. Currently, the board does not have specific power to investigate a doctor's competence in such situations or, on that account, limit his practice or suspend his registration. (It has only limited powers in relation to mental or physical incapacity.) Provision is made in this Bill to remedy these deficiencies.

Another major initiative in the Bill is the establishment of the Medical Practitioners Professional Conduct Tribunal to investigate complaints alleging unprofessional conduct. From time to time, criticism has been levelled at the existing investigative and disciplinary mechanism, on the grounds that the board must in a sense be both prosecutor and judge. The Government believes that the proposed division of responsibility between the board and the tribunal answers that criticism and will streamline the handling of complaints.

The tribunal will be a five-member body, chaired by a person who either holds judicial office under the Local and District Criminal Courts Act, or is a special magistrate, or a legal practitioner of not less than 10 years standing. The previous Bill provided for the Chairman to be a legal practitioner of not less than seven years standing. The Government believes, however, that in view of the considerable powers vested in the tribunal, the Chairman ought to be a more senior member of the legal profession. Provision is again made for the inclusion of a lay person on the tribunal. The Government believes it is particularly important for the community voice to be heard in this context.

Complaints will initially be lodged with the board, which may itself investigate the matter or, taking account of the seriousness of the matter, may refer the matter to the tribunal. The tribunal will have a range of sanctions it can apply, including reprimanding the medical practitioner, imposing a fine of up to $5 000, imposing conditions restricting his right to practise medicine, suspending the practitioner for up to one year or cancelling registration. There will be the right of appeal to the Supreme Court against a decision of the tribunal.

An important addition to the Bill is the power for the board to require parties to appear before the registrar if it is satisfied that a complaint was laid as a result of a misapprehension or misunderstanding between the parties. This is essentially a conciliation clause, based on the assumption that some complaints are really the result of poor communication. The Government believes that such a mechanism will enable a significant number of complaints to be dealt with more quickly, will encourage improved communication and, hopefully, will facilitate the restoration of positive relationships between the profession and the community.

The Bill provides in similar fashion to the existing Act for registration of general practitioners and specialists. Qualifications for registration will be set out in regulations. Honourable members will note that, with the repeal of the existing Act, the provisions relating to the Foreign Practitioners Assessment Committee are repealed. This committee was included in the 1966 amendments to the Act, for the purpose of examining certain foreign graduates whose qualifications were not automatically registrable. The committee has performed a useful function. However, its functions have now been superseded with the development of the Australian Medical Examining Council. Medical boards, in an attempt to introduce uniform registration requirements, have adopted the principle that any overseas doctor who wishes to practise in Australia and whose qualifications are not such as to entitle him to immediate registration should be required to pass an examination of the same standard as that required of graduates of any Australian medical school. The Australian Medical Examining Council (AMEC) was established to conduct examinations for this purpose. It will be through regulations that recognition of AMEC examinations or, indeed, recommendations of any future similar body, will be able to be achieved. Accordingly, it is no longer necessary to retain any reference to the Foreign Practitioners Assessment Committee in the Act.

Also on the subject of registration, provision has been included to enable the suspension of the registration of a medical practitioner who has not resided in the Commonwealth of Australia for 12 months immediately preceding his application. The Medical Register currently presents an inaccurate picture of the number of medical practitioners in the State. It is considered that many practitioners on the register have never practised in the State, and are unlikely to do so.

At the request of the medical profession, the Government proposes to allow the practice of medicine by companies. Other States have allowed this to occur, but in contrast with the situation in other States, which do not have specific legislation dealing with the matter, the Government believes that safeguards to regulate such a practice by companies should be contained in the Medical Practitioners Act. The Bill makes provision accordingly, and I shall deal with specific aspects in the explanation of clauses which follows.

The attention of honourable members is particularly drawn to the provisions relating to practice of medicine by unre-

gistered persons. The Government regards it as a serious matter, indeed, for unregistered persons to hold themselves out, or permit others to do so, as if they were registered under the Act. Substantial penalties, including imprisonment, are provided.

Provision is included to enable certain treatment, diseases or illnesses to be prescribed, should it be deemed necessary, the effect of which will be to restrict provision of such treatment to medical practitioners or persons registered or authorised under other health legislation. Recovery of fees is restricted to registered persons.

The attention of honourable members is drawn to a new clause inserted by the Government, prohibiting the practice of medicine by a practitioner unless he has entered into a contract with a person approved by the board whereby he will be indemnified in the event of loss arising from claims in respect of civil liability. The Government sees this as a protection for the medical practitioner and, more particularly, the public. The public can be confident that, in the event of a successful action against a registered practitioner, they will have access to some monetary redress.

A power of exemption is included, which is intended to apply, for example, to practitioners on limited registration working within a hospital. In these circumstances, the hospital would be obliged to meet any liability of the employed doctor, as is presently the case by virtue of the Wrongs Act.

Another important provision in the Bill is the requirement for declaration of interest in hospitals and nursing homes by medical practitioners or prescribed relatives. The information is required to be supplied to the board and patients must also be informed prior to being referred to such institutions. Substantial penalties are provided for non-compliance. As honourable members would be aware, I am on record as being critical of the present state of affairs in this regard. It is not the Government's intention to prohibit ownership by medical practitioners at this time. In co-operation with the board, we will carefully monitor the situation following implementation of the Act. If the proposed controls prove to be inadequate, the Government will have no alternative but to consider legislating.

In respect of each of the matters dealt with by the Bill, Parliament and the public are entitled to be informed of the directions which the profession is taking and the manner in which the board approaches the interests of both the profession and the public. Accordingly, the board will be required to prepare an annual report for presentation to the Minister of Health and tabling in Parliament. By this means, it is intended that the community should be better informed about the manner in which the profession operates and the profession itself should become further accountable to the public.

This Bill is the first major revision of the Act for many years. It embodies an awareness of public accountability, as well as serving the purpose of proper regulation of medical practice. I commend it to the Council. There follows an explanation of clauses 1 to 77, which I seek permission to incorporate in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clauses 1 and 2 are formal. Clause 3 sets out the arrangement of the Bill. Clause 4 repeals the Medical Practitioners Act, 1919-1976, and provides for the necessary transitional matters on commencement of the new Act. Clause 5 provides definitions of terms used in the Bill. Subclause (2) provides that the Act will apply to unprofessional conduct committed before its enactment. This is in the nature of a transitional provision. A practitioner who is guilty of such conduct cannot be penalised by removing his name from the register under the old Act after it has been repealed. This provision will enable his name to be removed from the register under the new Act. Paragraph *(b)* of the subclause ensures that a practitioner can be disciplined for unprofessional conduct committed outside South Australia.

Clause 6 establishes the Medical Board. Clause 7 provides for the membership of the board and related matters. Clause 8 provides for the appointment of a chairman of the board. Clause 9 provides for procedures at meetings of the board. Clause 10 ensures the validity of acts of the board and gives members immunity from liability in the exercise of their powers and functions under the Act.

Clause 11 disqualifies a member who has a personal interest in a matter under consideration by the board from participating in the board's decisions on that matter. Clause 12 provides for remuneration and other payments to members of the board. Clause 13 sets out the functions and powers of the board. Clause 14 will enable the board to establish committees.

Clause 15 provides for delegation by the board of its functions and powers to the persons referred to in subclause (2) *(a)* (i) and to a committee established by the board. Clause 16 sets out powers of the board when conducting hearings under Part IV or considering an application for registration or reinstatement of registration. Subclause (4) gives a witness before the board the same protection as he would have before the Supreme Court. This provision will give witnesses protection in relation to any defamatory statements that they might make in the course of giving evidence.

Clause 17 frees the board from the strictures of the rules of evidence and gives it power to decide its own procedure. Clause 18 provides for representations at hearings before the board. Clause 19 provides for costs in proceedings before the board. Clause 20 provides for the appointment of the registrar and employees of the board. Clause 21 requires the board to keep proper accounts and gives the Auditor-General powers as to the audit of those accounts. Clause 22 requires the board to make an annual report on the administration of the Act. The Minister must cause a copy of the report to be laid before each House of Parliament.

Clause 23 establishes the Medical Practitioners Professional Conduct Tribunal. Clause 24 provides for the membership of the tribunal and related matters. Clause 25 provides for the constitution of the tribunal. Clause 26 provides for the determination of questions by the tribunal. Clause 27 ensures the validity of acts and proceedings of the tribunal and gives the members immunity from liability in the exercise of their functions and powers under the Act.

Clause 28 provides for the disqualification of a member who has a personal or pecuniary interest in a proceeding before the tribunal. Clause 29 provides for remuneration and other payments to members of the tribunal. Clause 30 prohibits a person from holding himself or another out as a general practitioner or a specialist unless he or the other person is registered on the general or specialist register. The penalty is a fine of five thousand dollars or imprisonment for six months.

Clause 31 makes it illegal for an unqualified person to provide medical treatment of a prescribed kind or in relation to a prescribed illness or disease. The clause also prohibits the recovery of a fee or other charge for the provision of any medical treatment by an unqualified person. The effect of this is that fees charged by such persons may be paid, but cannot be recovered in a court of law. Subclause (2) excludes a person conducting the business of a hospital, nursing or rest home from the operation of the provision. A 'qualified person' is defined in subclause (3) to be a medical practitioner or a person who has qualifications recognised by or under an Act of Parliament. Clauses 32

and 33 provide for the registration of persons on the general and specialist registers. The qualifications, experience and other requirements for registration will be prescribed in regulations.

Clause 34 provides for reinstatement of registration. A person whose name has been removed from the register for any reason will not have a right to be automatically reinstated. Before being reinstated he must satisfy the board that his knowledge, experience and skill are sufficiently up-to-date and that he is still a fit and proper person to be registered. The tribunal may under Part IV suspend a practitioner for a maximum of one year or may cancel his registration. Subclause (3) of this clause provides that a practitioner whose registration has been cancelled may not apply for reinstatement before the expiration of two years after the cancellation.

Clause 35 provides for limited registration. Registration under this clause may be made subject to conditions specified in subclause (3). Subclause (1) will allow medical school graduates, persons seeking reinstatement and any other persons requiring experience for full registration to be registered so that they may acquire that experience. Subclause (2) gives the board the option of registering a person who is not fit and proper for full registration. He may be registered subject to conditions that cater for the deficiency.

Clause 36 provides for provisional registration. Clause 37 provides for registration of companies on the general register and provides detailed requirements as to the memorandum and articles of such a company. Clause 38 provides for annual returns by registered companies and the provision of details relating to directors and members of the company.

Clause 39 prohibits companies registered on the general register from practising in partnership. Clause 40 restricts the number of medical practitioners who can be employed by a registered company. Clause 41 makes directors of a registered company criminally liable for offences committed by the company. Clause 42 makes the directors of a registered company liable for the civil liability of the company. Clause 43 requires that any alterations in the memorandum or articles of a registered company must be approved by the board.

Clause 44 provides for the keeping and the publication of the general and specialist registers and other related matters. Clause 45 provides for the payment of fees by medical practitioners. Clauses 46 to 48 make provisions relating to the register that are self-explanatory. Clause 49 will enable the board to obtain information from medical practitioners relating to their employment and practice of medicine. This information is considered important to assist in manpower planning of medical services for the continued benefit of the community.

Clause 50 is a provision which will allow the board to consider whether a practitioner who is the subject of a complaint under the clause has the necessary knowledge, experience and skill to practise in the branch of medicine that he has chosen. This important provision will help to ensure that practitioners keep up-to-date with latest developments in their practice of medicine. If the matters alleged in the complaint are established the board will be able to impose conditions on the practitioner's registration.

Clause 51 is designed to protect the public where a practitioner is suffering a mental or physical incapacity but refuses to abandon or curtail his practice. In such circumstances the board may suspend his registration or impose conditions on it. Clause 52 places an obligation on a medical practitioner who is treating a colleague for an illness that is likely to incapacitate his patient to report the matter to the board. Clause 53 empowers the board to require a medical practitioner whose mental or physical capacity is in doubt to submit to an examination by a medical practitioner appointed by the board.

Clause 54 gives the board the power to inquire into allegations of unprofessional conduct. If the allegations are proved the board may reprimand the practitioner. However in a serious case it may take the matter to the tribunal. Clause 55 gives the board power to vary or revoke a condition it has imposed on registration or that is imposed by clause 4 of the Bill. Clause 56 empowers the board to suspend the registration of a practitioner who has not resided in the Commonwealth for six months.

Clause 57 makes machinery provisions as to the conduct of inquiries. Clause 58 provides that a complaint alleging unprofessional conduct by a medical practitioner may be laid before the tribunal by the board. The orders that can be made against the practitioner or former practitioner are set out in subclause (3). Clause 59 provides for the variation or revocation of a condition imposed by the tribunal.

Clause 60 provides for a problem that has occurred in the past. A practitioner who is registered here and interstate and has been struck off in the other State can practise here with impunity during the hearing of proceedings to have him removed from the South Australian register. Experience has shown that these proceedings can be protracted. This provision will enable the Board to suspend him during this process. Clause 61 makes machinery provisions as to the conduct of inquiries.

Clause 62 relaxes the rules of evidence in inquiries before the tribunal and enables it to conduct its hearings as it thinks fit. Clause 63 provides powers of the tribunal as to the taking of oral and other evidence. Subclauses (5) and (6) empower the Supreme Court to make necessary orders to enforce the powers of the tribunal. Clause 64 provides for the assessment and payment of costs. Clause 65 is a rule-making provision.

Clause 66 provides for appeals to the Supreme Court. An appeal will lie from the refusal of the board to grant an application for registration or reinstatement or imposing a condition on registration. Appeals will also lie from orders of the board or the tribunal under Part IV. Clause 67 allows orders of the board or the tribunal to be suspended pending an appeal to the Supreme Court. Clause 68 empowers the Supreme Court to vary or revoke a condition that it has imposed on appeal.

Clause 69 requires medical practitioners to be properly indemnified against negligence claims before practising medicine. Clause 70 makes it an offence to contravene or fail to comply with a condition imposed by or under the Act. Clause 71 requires the disclosure to the board by a medical practitioner or the prescribed relative of a practitioner of any interest that he or the relative has in a hospital, nursing home or similar institution. The practitioner must also inform a patient of the interest when referring him to the hospital. The clause requires that practitioners and prescribed relatives who have such an interest at the commencement of the Act must inform the board within thirty days of the commencement.

Clause 72 requires a practitioner to inform the board of claims for professional negligence made against him. Clause 73 provides for the service of notices on practitioners. Clause 74 provides a penalty for the procurement of registration by fraud. Clause 75 provides that where a practitioner is guilty of unprofessional conduct by reason of the commission of an offence he may be punished for the offence as well as being disciplined under Part IV. Clause 76 provides that offences under the Act will be minor indictable offences except where otherwise provided. Clause 77 provides for the making of regulations.

The Hon. J.C. BURDETT secured the adjournment of the debate.

ADDRESS IN REPLY

Adjourned debate on motion for adoption.
(Continued from 23 March. Page 569.)

The Hon. C.J. SUMNER (Attorney-General): May I join with other honourable members in expressing my sympathies to the families of two former members who have died since the last Address in Reply debate—the late Cyril Hutchens, formerly member of the House of Assembly and a Minister in the Labor Government that was elected in 1965, and Gordon Gilfillan, a member of this Council for some years.

I express my sympathies to the families of those two former members. Also, I officially welcome new members to the Council. It now seems as though they have been here for almost as long as I have, but nevertheless I thank them for their contributions in this debate, and I will make some specific comments on what some of them had to say in the course of my remarks.

I still think that the Address in Reply debate is an important debate in the Parliamentary system, although it has been criticised in recent times as being a time wasting procedure which does not really fulfil any useful role. I know that opinion has been expressed in press comments from time to time and by some members in another place. The argument is that it merely holds up Parliament's embarking on Government business and matters that may be somewhat controversial and exciting from the public's point of view.

Nevertheless, from the point of view of Parliament as an institution, it is a debate which ought to be retained because it is one occasion on which all members have the opportunity to talk about a topic of their own choosing without being constrained by the rules of relevance that relate to Bills that are brought before the Council. I believe that it is particularly important for new members to express in general terms their own viewpoints on issues confronting the community. On this occasion the contributions of the new members have achieved that purpose and have made a useful contribution to the debate.

There were a number of themes running through some of the speeches. The Hon. Miss Laidlaw referred to her desire to restore the credibility of politicians. That is a desire which I share, but I am not sure that she will be entirely successful in her endeavours. I concede that politicians have a public relations problem in the community. It was the Federal member for Port Adelaide (Mick Young) who said that a politician in the public eye could only be ranked with child molesters. While that may have been a colourful or slightly exaggerated way of making a point, it is probably true that politicians' reputations as a class in the community are not particularly high.

The Hon. Miss Laidlaw referred to encouraging Governments to be more open, and said that excessive secrecy, far from advancing the democratic processes, is, in fact, potentially destructive. She again referred to a theme that other honourable members took up, that there ought to be developed a bipartisan approach to complex problems. I think she said that in the implementation of those aims or ideals the credibility of politicians would be enhanced. I can do nothing but agree with her in those sentiments. Certainly, the Government recognises that situation and, in the policies that we put before the people at the last election, we made special reference to the development of common approaches on issues where that was possible. Indeed, I made reference to that in the policy advanced on constitutional and legal reform to which I referred yesterday in this Council. I know that the Premier also indicated his support for that general approach.

It is also interesting to note that the present Prime Minister has that view and that the whole basis of the Labor Party policy at the last Federal election was directed towards trying to develop that reconciliation, whereby those common positions can in fact be produced. As I said yesterday, that does not mean that there will not be points of high controversy between the Parties; nevertheless, there is a case recognised by the Prime Minister in his statement, for instance, that he wished all members of Parliament to contribute in some way to important decisions of the Government. Those sentiments have been expressed from our side of the Chamber, and they were also expressed by the Hon. Miss Laidlaw and reiterated by other members, including the Hon. Mr Lucas, one of the other new members, and the Hon. Mr DeGaris.

I have outlined previously the Government's attitude to Parliamentary reform. I indicated yesterday in answer to a question from the Hon. Mr DeGaris that there were certain proposals that the Government wished to put before Parliament in the near future. The Hon. Mr Lucas, as another new member, made a number of important points about the constitutional structure of our State and Parliament. He proposed a number of matters that were in the Labor Party policy at the last election. I will be interested to hear his support for those propositions when there are measures before this Council.

One issue that he and the Hon. Miss Laidlaw discussed was the question of Ministers in the Upper House. In fact, the Hon. Mr DeGaris said that I was not in accord with my Federal colleagues who have taken the view that there should not be any Ministers in the Senate. I have never specifically expressed a point of view about Ministers in the Upper House or in the Senate, for that matter. However, while there may be some theoretical justification for that proposition in the Federal Senate or in the United States Senate, where they are dealing with much broader issues, that proposition just simply would not work in a Legislative Council of this size.

While the Hon. Mr Lucas may find it theoretically attractive, and perhaps practically attractive, I believe that the end result would be that the Legislative Council would become probably less effective than it is at the moment, simply because anyone who aspired to Ministerial office would obviously not come to this Council. With all due respect to current members, I suspect that the quality of candidates would deteriorate, and I do not believe that those who maintain the importance of the Legislative Council as a House of Review would really be serving their own cause by removing Ministers from the Council.

Nevertheless, that is a matter that they can or will continue to pursue until such time as they find themselves either candidates for the Ministry or, in fact, elected to the Ministry. That has a very salutory effect on people's opinions on whether or not there should be Ministers in the Council in which they are members. Nevertheless, the contribution made by the Hon. Mr Lucas on that point was important, and I will certainly watch with interest for his support of such propositions over the next three years.

The Hon. Mr. DeGaris also dealt with a number of matters in relation to the Parliamentary reforms that he has canvassed on various occasions. Once again, I indicate that the Labor Party has several policies to deal with this situation, involving an increase in the committee work within Parliament. As I said yesterday, I will have discussions with Opposition members about this matter in the reasonably near future. The Hon. Mr DeGaris also referred to the question of funding and capital funds being used to prop

up the Revenue Account. The Hon. Mr DeGaris is the only member opposite who made any criticism of that practice during the period of the Liberal Government. He has now proposed that there should be a law prohibiting such a practice, and he indicated that that is the situation in some States in the United States.

The Hon. R.C. DeGaris: All States now.

The Hon. C.J. SUMNER: The Hon. Mr DeGaris informs me that it is the practice in all States. I am not sure whether it is justified, but it is something that could be looked at. Perhaps a degree of flexibility is required—flexibility which was exercised prior to 1979 when capital transfers were recouped in subsequent years. That practice was certainly not followed in the period from 1979 to 1983, and it has left us with a substantial underlying deficit position in the State Budget. How Parliament will deal with that issue over the next three years will be one of the big challenges that we must all face, because it has developed into an extremely difficult and worrying position where the Sate Government must rely on capital funds to prop up its Revenue Account.

In his contribution the Hon. Mr Hill attempted to justify that practice. Although it might be justified on an intermittent basis, it is difficult to justify on any sensible or rational consideration to the extent that it was used over the past three years.

The Hon. Mr Blevins referred to the voting system in the Legislative Council. I believe that the Government will consider his proposition, which he attributed to two Liberal members—the Hon. Mr Geoffrey O'Halloran-Giles and the Hon. Mr Wilson. That proposition suggests that a combination of two voting systems can be used for Upper House elections, that is, a list system combined with a system of voting for individuals. I think that that system is known as indicated preferences, and it has been promoted by the two Liberal members to whom I have referred. The Government will consider that proposition.

The Hon. Mr Dunn referred primarily to rural matters and Eyre Peninsula, which is not surprising in view of his association with that area as a farmer. I am sure that his expertise in that area will add considerably to the deliberations of this Council. In fact, it is probably true to say that 10 or 15 years ago there were many more farmers in Parliament than there are today. That change in representation has probably reflected a change in the community and in the State generally. Nevertheless, it is important that there be the sort of rural representation in Parliament that we have from the Hon. Mr Dunn with his experience in rural matters and his experience in relation to a part of the State which is farther away than many of the areas in and around Adelaide.

The Hon. Frank Blevins interjecting:

The Hon. C.J. SUMNER: The Hon. Mr Blevins is also well aware of the problems of Eyre Peninsula because he also lives in that area. I understand that he has travelled many miles around Eyre Peninsula over the past few years.

The Hon. Frank Blevins: Thousands of miles.

The Hon. C.J. SUMNER: I am informed that he has travelled thousands of miles in pursuit of his constituents. The Hon. Miss Wiese referred to the question of what action will be taken to reform the law in relation to transexuals. That matter is on the agenda for the meeting of the Standing Committee of Attorneys-General which starts in Adelaide on Saturday. Unfortunately, progress in this area at standing committee meetings has not been particularly successful. The main problem, as the honourable member pointed out, is whether biological sex, biological attributes or psychological attributes should be the determining factor in ascertaining a person's gender. The Hon. Miss Wiese advocated the adoption of psychological criteria rather than those currently adopted by the law of biological criteria.

This problem cannot be properly addressed exclusively at State level, because it impinges on Federal law. I refer to the positions in relation to passport applications and in relation to marriage, because they are both Federal responsibilities. However, there are some areas where we could act at State level in relation to, say, birth certificates. The question there is whether a birth certificate should be changed or whether some indication should be given by the Registrar of Births, Deaths and Marriages that a sex change has occurred. There is limited provision for that to occur in South Australia at the moment, but the real question of the status of birth certificates has not been addressed. I believe that the matter must be addressed at a national level because this topic impinges on Federal laws. Nevertheless, I undertake to pursue the matter through the Standing Committee of Attorneys-General. It may be that the new Federal Government will take a more sympathetic attitude to this issue than did the previous Liberal Government.

The Hon. Mr Cameron discussed, in a comprehensive way, the recent tragic bushfires. His contribution was particularly useful for the Council and indeed for the Government. I think that most people would concede that, following this tragedy, the Government's response was swift and that it took all possible action, given the nature of the tragedy. It is now a matter of trying to assess what should be done in the future. The Hon. Mr Cameron made several valuable suggestions in that regard. The Coroner will conduct an inquest into the fires and the deaths. He has told me, and I think he has said publicly, that he will consider dealing with issues relating to measures that can be taken to reduce the possibility of a recurrence of this tragedy and the possibility of damage if bushfires occur again on the scale that occurred recently.

The Government will, of course, consider the Coroner's report along with other recommendations that will be made on what future action should be taken, including the suggestion made by the Hon. Mr Cameron. I have referred his comments to the Minister of Agriculture and other Government members for their consideration. It is tragic, of course, that there are always grave problems in the aftermath of bushfires such as the ones that we have just seen. Although the Government can act swiftly, as I believe it did in this case during the initial emergency, as time goes by and people's expectations are not met there are often severe psychological difficulties and a sense of frustration that can impact on the Government. Nevertheless, I believe that, until the present time, the action that has been taken has received general community acceptance. Certainly, continuing sympathy will need to be shown by the Government, voluntary agencies and the community generally for those people who suffered during the bushfires.

It is interesting to note that the Hon. Mr Cameron said he was speaking as an individual and not as a member of the Liberal Party when he spoke about the Kingston coal deposit. I assume that he was speaking on behalf of some of his constituents who live in the South-East of the State where he comes from. It is interesting to note, first, that one can draw distinctions in Opposition that one cannot draw as a member of the Government. As I indicated previously this afternoon, it is not so easy publicly to distinguish between one's personal views and views taken collectively by the Cabinet. Nevertheless, the honourable member's individual view is that the Kingston coal deposit should not be developed. That is an interesting position he has taken, given that considerable pressure has built up to develop that deposit at all costs.

The Hon. Mr Cameron has quite rightly warned that development of that deposit might have a disastrous impact on the water table in the South-East. He is accepting the proposition that it cannot be developed at all costs, and

there are environmental factors to be taken into account which could impact on existing industry and lifestyles in the area. The honourable member's comments in that respect need to be examined closely by the Government and others who may be interested in developing that coal deposit.

The Hon. R.J. Ritson: His position is not an ideological one.

The Hon. C.J. SUMNER: It is not, but nevertheless it is a position based on environmental factors. I am not quite sure what the honourable member means by the words 'ideological position'.

The Hon. R.J. Ritson: You have taken an ideological position on uranium.

The Hon. C.J. SUMNER: The honourable member says that we have adopted an ideological position on uranium. Our position on uranium, if honourable members want me to repeat it, has nothing to do with ideology at all. There are people in the Labor Party who support uranium mining and people who do not. There are people in the Labor Party who oppose uranium mining and people who do not. There are people in the community who support uranium mining and others who do not. All this has been indicated previously.

The Hon. Mr Gilfillan, the new member of the Australian Democrats, made comments about the Legislative Council and indicated that now it is fully democratically elected it should have no restraint on its powers. I am not sure what the honourable member means by that. I would be surprised if he meant that the Council should not have its power to reject Supply restricted. Certainly, the Democrats have consistently maintained a position that an Upper House should not reject Supply. Their Federal representative, Senator Chipp, has indicated that position on a number of occasions. The Liberal Movement, which was a precursor to the Australian Democrats, opposed action being taken by Mr Fraser and his colleagues in Canberra in 1975. The Democrats have, I believe, taken a consistent attitude that Upper Houses should not have the power to block Supply.

The Hon. I. Gilfillan: They are not in favour of a constitutional change to effect that.

The Hon. C.J. SUMNER: That is a curious position.

The Hon. I. Gilfillan: That is the position that the Democrats take.

The Hon. C.J. SUMNER: I suppose that it is the position that the Democrats take because they cannot make up their minds. They say, on the one hand, 'No, we will never block Supply,' but when one then says that they should change the Constitution to place that view beyond doubt in law they say, 'No, we are not going to do that.'

The Hon. R.C. DeGaris: It is an entirely consistent view.

The Hon. C.J. SUMNER: No, it is not, it is a completely illogical view. If you say that you are not going to block Supply, why not alter the Constitution and remove the temptation to do so? I am firmly of the view that that power should be removed from Upper Houses. It introduces into the political system a degree of instability that I believe is not warranted. Furthermore, it means that if the power exists to block Supply the position will never be reached, or it will be more difficult to reach a position, where common points of view can be developed using the committee system in Upper Houses. I think that that is the precise point that the Hon. Mr Lucas was making in his contribution, to which I referred earlier.

I ask the Hon. Mr Gilfillan to consider this proposition and to reconsider his bold statement that Upper Houses should have no restraint on their powers. I believe that this is consistent with Australian Democrat policy, certainly with the stated position that they have adopted on many occasions, that Upper Houses should not block Supply. I believe that if we dispense with that power in an Upper House many potential benefits will flow from that action, because it removes the continuing potential political antagonistic element from an Upper House. From such action can flow the benefits of the commitee system whereby common positions can be developed on issues which might be complex but not politically controversial. I recommend to the honourable members the paper that I wrote for the 'study of Parliament' group in Perth last year. That paper, to which the Hon. Mr Gilfillan referred during his speech, argued this point in some detail.

The Hon. I. Gilfillan: It was an observation.

The Hon. C.J. SUMNER: The honourable member referred to the Liberal Party and the Labor Party having research officers appointed to them. That is not the case, and no persons in this Parliament except Government Ministers and the Leader of the Opposition in the House of Assembly have the right to a research officer. Nevertheless, in 1970 the Dunstan Government made a research facility available through the Parliamentary Library.

I am currently attempting to negotiate a position with honourable members opposite and the Australian Democrats on a considerable increase in the facilities available to members in the Council. I do not want to speculate openly about the state of those negotiations. Nevertheless, it is true to say that I have gone along at a somewhat slower pace than I would have preferred. However, I hope that the matter can be resolved in the reasonably near future.

The Hon. M.B. Cameron: You don't want an argument?

The Hon. C.J. SUMNER: I am merely trying to indicate to the honourable member that, if these negotiations are satisfactorily concluded, honourable members in this Council will have better facilities than they have ever had before. I do not know that the Government, at this stage, given the State's financial position, is in a position to go much further in that regard. All I can say to the honourable member is that, if the matter is resolved satisfactorily, he will have facilities that no other member of this Council has ever had previously, and to a greater extent.

I believe that I have covered most of the issues that have been mentioned by honourable members, with one or two exceptions that I will mention briefly. The Hon. Mr Feleppa referred to the Natural Disasters Fund. I believe that that matter will be taken up at the Federal level. The Hon. Ralph Jacobi, a member of the House of Representatives, has taken an interest in that matter over many years, and I am sure that it will be promoted in the Federal Parliament.

The Hon. Mr Davis (if he wants a guernsey I will give him one) talked about the State Enterprise Fund and the Ramsay Trust: his comments were very interesting, and I am sure that the Government will read them with interest.

The Hon. Mr Feleppa pursued a number of matters relating to ethnic affairs, which he subsequently pursued in the Council, including the Rimmington Report on the ethnic composition of the Public Service. I have indicated that that report will be made public in the near future. The report of the migrant/police working party will also be made public. I believe that the most controversial aspect with which that report deals is the role of interpreters in relation to police interrogation. Nevertheless, the Government's view in that regard will be determined shortly.

The honourable member referred to education. As opposed to the previous Government, the present Government is committed to a continuation of a multi-cultural education system in schools and language teaching. The Federal Government is committed to the development of a national language policy. We rejected the philosophy of the Keeves Committee of Inquiry.

The honourable member will also be aware that a task force has been set up in the Health Commission to deal with the specific problems of people of ethnic minority origin and to consider how best we can deliver services to

ethnic minority groups through the Health Commission. That will be followed by a task force in the Department for Community Welfare and other Government departments over the next three years. I thank the honourable member particularly for his contribution. It was not his first contribution in the Parliament, but it was his first Address in Reply contribution. Of course, the honourable member took up issues with which he is particularly concerned.

The Hon. Mr Hill also made an incursion into ethnic affairs. While I sympathise with his concerns about the use of the word 'ethnic', I am not sure that his proposition really does much to resolve the issue in a sensible way. However, it may be worth considering. I thank honourable members for their contributions. I trust that, in my concluding debate, I have been able to indicate the Government's position in regard to some points raised by honourable members, as well as what proposals will be developed during the term of this Government.

Motion carried.

The PRESIDENT: I have to inform the Council that His Excellency the Governor has appointed 4.30 p.m. today as the time for the presentation of the Address in Reply to His Excellency's Opening Speech. I indicate that 4.15 p.m. would be an appropriate time to leave this Chamber.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL

Read a third time and passed.

SOUTH-EASTERN DRAINAGE ACT AMENDMENT BILL

Second reading.

The Hon. B.A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

The principal objective of this Bill is to provide for staggered elections of the two landholder members of the South-Eastern Drainage Board (a four-person board) and also provide for the board to be consulted by the Minister prior to the appointment of future board chairmen. Under the present Act the landholder members are elected at the same time and concurrently serve three-year terms. Should both these members be defeated at an election, or both retire simultaneously and the two public servant members, who are appointed by the Governor, retire at or near the same time, the board would obviously lack experienced personnel.

The board desires to overcome this problem by providing in the Act for one landholder member to be elected at two-year intervals, and each to hold office for four years. This would ensure continuity of experience and minimise the disruptive effect that changes in membership have on boards comprised of such a small number. Under the existing legislation the selection of the board Chairman is the prerogative of the Minister and there is no requirement to consult the board on this matter or to seek its recommendation. However, it is considered that such a procedure should be adopted before future chairmen are appointed by the Governor. I seek leave to have the explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 provides that clause 4 of the Act is to come into operation after the completion of the next board election. This means that the current landholder members will serve their present three-year term, and that thereafter elections will be held at two-year intervals. Clause 3 provides that landholder members of the board will be elected for four-year terms of office. One of the members elected at the next election is to hold office for only two years, thus providing for staggering retirements.

Clause 4 provides for elections to be held every two years. Other consequential amendments are effected. This clause will come into operation after the next election is held under the Act. Clause 5 provides that the Governor shall not at any time appoint a Chairman of the board unless the Minister has first consulted with the board and considered any recommendation that the board may wish to make.

The Hon. M.B. CAMERON secured the adjournment of the debate.

ADDRESS IN REPLY

The PRESIDENT: Order! I remind honourable members that His Excellency the Governor will receive the President and members of the Council at 4.30 p.m. for the presentation of the Address in Reply. I ask all honourable members to accompany me to Government House.

[Sitting suspended from 4.15 to 4.53 p.m.]

The PRESIDENT: I have to inform the Council that, accompanied by the mover, seconder and other honourable members, I proceeded to Government House and there presented to His Excellency the Address in Reply to His Excellency's Opening Speech adopted by this Council, to which His Excellency was pleased to make the following reply:

I thank you for your Address in Reply to the Speech with which I opened the first session of the Forty-fifth Parliament. I am confident that you will give your best attention to all matters placed before you. I pray for God's blessing on your deliberations.

MOTOR VEHICLES ACT AMENDMENT BILL (No. 2)

Second reading.

The Hon. B.A. CHATTERTON (Minister of Agriculture): I move:

That this Bill be now read a second time.

At the end of 1978, a scheme was enacted whereby disabled persons could apply to the Registrar of Motor Vehicles for a special parking permit allowing extra time on parking meters and in parking zones of 15 or more minutes. The Act defines a 'disabled person' as one who is unable to use public transport because of a permanent impairment in the use of his limbs and whose speed of movement is severely restricted as a result of that impairment.

Since the introduction of the permit system, there has been some pressure from the Totally and Permanently Disabled Soldiers' Association of Australia, and from various other organisations and private individuals, for a relaxation of the rather restricted criteria used in determining a person's eligibility for a permit. It has been pointed out that some persons suffering from severe respiratory or cardiac disorders cannot use public transport or walk at a normal pace as a result of their disorders. The Government therefore believes that the Act should be broadened to enable such persons to apply for parking permits.

The Government has consulted Sir Charles Bright, as he was Chairman of the committee whose recommendations

gave rise to the original scheme, in relation to this Bill and has also discussed the proposal with the Adelaide City Council. Only 430 permits have so far been granted—a figure much lower than originally anticipated. I therefore believe that the proposed broadening of the eligibility criteria would not put any undue pressure on the city's turnover in parking spaces. I seek leave to have the detailed explanation of clauses inserted in *Hansard* without my reading it.

Leave granted.

Explanation of Clauses

Clause 1 is formal. Clause 2 removes the reference to impairment in the use of a person's limbs, and substitutes a more general reference to any physical impairment in the use of a person's limbs, and substitutes a more general reference to any physical impairment. It should be borne in mind that the impairment must still be permanent, and must still result in an inability to use public transport and a severe restriction in speed of movement.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ALSATIAN DOGS ACT REPEAL BILL

Second reading.

The Hon. J.R. CORNWALL (Minister of Health): I move:

That this Bill be now read a second time.

The Alsatian Dogs Act, 1934-1980, was introduced in 1934 to prevent the possibility of German Shepherd dogs getting out of control, breeding with dingoes and becoming a threat to the sheep industry. The Act prohibits the keeping of Alsatian or German Shepherd dogs in certain parts of South Australia. The prohibition applies within the pastoral areas of the State generally north, north-east and north-west of Port Augusta, the area of the District Council of Hawker, the pastoral areas within the boundaries of the City of Whyalla, and on Kangaroo Island.

In 1980 the Act was amended to allow interstate travellers to obtain permits to take their German Shepherd dogs with them when travelling through the prohibited areas in the north. In addition, a number of townships have now been exempted from the provisions of the Act.

The restrictions against German Shepherds have recently been called into question. Little evidence has been found to back a common claim that German Shepherds could breed with dingoes and become a danger to livestock. The C.S.I.R.O. reported that, theoretically, inter-breeding could occur but that trial matings have been unsuccessful. There are now a number of breeds in South Australia such as Belgian sheepdogs, Groenendaels and Norwegian Elkhounds, which are similar in size and conformation to German Shepherds, as well as other large dogs such as Dobermanns and Rottweilers. These breeds do not suffer the same restrictions. Since the lifting of the prohibition in the northern townships the Government has not received any reports that it has been to the detriment of the pastoral industry.

The Dog Control Act now provides a number of provisions for the effective control of dogs throughout the State. In particular, section 46 (2) provides:

> The owner or occupier of any enclosed paddock, field, yard or other place in which any horse, cattle, sheep, swine, goats or poultry (in this section referred to as 'livestock') are confined, or any person acting under the authority of that owner or occupier, may lawfully shoot or otherwise destroy any dog that is found therein and is not accompanied by some person.

South Australia is now the only State with a specific Act that discriminates against German Shepherd dogs and their owners. Clause 1 is formal. Clause 2 repeals the Alsatian Dogs Act, 1934-1980.

The Hon. M.B. CAMERON secured the adjournment of the debate.

SOUTH AUSTRALIAN HEALTH COMMISSION ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 563.)

The Hon. J.C. BURDETT: I support the second reading of this Bill. The purpose of the Bill as explained in the second reading is that it is necessary to appoint a new Chairman and Executive Officer to the commission. The Executive Officer, Mr McKay, has resigned and gone back to New South Wales. I take this opportunity of paying a tribute to the work that he did in the commission in South Australia.

The particular aspect referred to in the explanation is worthy, and I am informed that the Minister is already in the process of appointing a new Chairman. The new Chairman will not be prepared to accept the security of tenure of only the remaining part of the term of office of the preceding Chairman, and that is quite reasonable.

In recent times there has been quite a lot of talk in this Council about the position of the Parliament and of the Executive. I refer, particularly, to the speech of the Hon. Mr Lucas in his Address in Reply contribution when he highlighted this feature and suggested that in recent times the Executive has been running all over Parliament. Here is an example: just because the executive Government wants at this time to appoint a new Chairman we are being asked fairly hastily to amend the Health Commission Act.

I have no objection whatever to amending the Act in the particulars of the Chairman and the executive officer. I acknowledge that we will not get a new full-time Chairman of the quality we would expect in that high position unless he has security of tenure. Therefore, I support the second reading and I am prepared to support the change that there be a full seven-year term of office for the Chairman, but not for the other members of the commission because the other members of the commission are part-time members; they are not career persons. There is no urgency and there is no reason why, if their positions become vacant, they should not be taken up for the balance of the term. Also, I postulate the suggestion that—not with this Government and not with this Minister, but at some time—it could happen that a Government could adjust matters so that various part-time members of the Health Commission resigned and it could replace them for seven years and therefore impose them on a succeeding Government.

But the more important part is that the Bill is said to be necessary because of the need to appoint a new Chairman. I accede to that, but I cannot see any need to extend it, as the terms of the Bill do, in the case of part-time commissioners—the other commissioners are all part-time now. If a commissioner resigns, I do not see why his successor needs to be appointed for seven years or any other fixed term; he can be appointed for the remainder of the term. So, I support the second reading, but in the Committee stage I will move the amendment which I have placed on file.

The Hon. R.J. RITSON: I support the second reading, and in doing so I support the Hon. Mr Burdett's remarks. The Minister explained to the Chamber that the pressing need was for this matter to be cleared up immediately so

that a Chairman might be offered a suitable term of office. That was the only reason given for the expedient nature of this Bill and, therefore, I submit to the Council that it is the only problem which needs to be remedied at this time. The remainder of the Act should be left in a condition of *status quo*. Attempts to open up other areas of the Act beyond those necessary to make the appointment which is so urgently required could lead to unnecessary delay. I am sure that members on this side are prepared to support the immediate passage of the Bill in a form which permits the immediate appointment of a Chairman for a term of seven years.

The Hon. K.L. MILNE: We support the Bill in principle, but I feel that the Hon. John Burdett's alternative provision is preferable because it is quite usual, in my experience, in statutory authorities for the permanent career people to have full-time appointments; if someone resigns they get another full term, whereas the part-time people are quite happy with filling the remainder of the term of their predecessors. The part-time people nearly always, in fact, get reappointed because it has been organised beforehand. This would have the same effect that the Minister is aiming at and would be more consistent with the other statutory authorities. I propose to support the amendment that the Hon. Mr Burdett is proposing to move, but also would not hold up the passage of the Bill because there is a very sensible reason why it should be passed very soon.

The Hon. J.R. CORNWALL (Minister of Health): Replying very briefly, I thank members for their contributions. It is not my intention to resist the amendment which the Hon. Mr Burdett has placed on file. Let me explain my reasons lest honourable members think that I have suddenly become terribly reasonable and other than my normal fearless self. There is a very real need to pass this legislation as expeditiously as possible because I am in the final stages of negotiating with a person whom I would like to appoint as successor to Mr McKay. It is absolutely essential, of course, that I am able to offer that person up to seven years as part of a contract; it would be quite unreasonable for a person of that calibre to be offered anything else. At the moment, as the Act stands, my hands are tied. I anticipate that the amendment accommodates that desire at the moment. However, I will bring the Bill back in the spring session.

The PRESIDENT: I remind the honourable Minister that at this stage we must not discuss amendments to any great degree.

The Hon. J.R. CORNWALL: No, not at all. I will not take the time of the Council. I am simply indicating that I will reopen the Act again in the spring session. At the moment it is not a matter of any great concern to me. The Bill in its amended form will accommodate what I want and I intend to accept the Opposition's amendment, particularly in view of the fact that the Democrats are supporting it and I have not got the numbers.

Bill read a second time.

In Committee.

Clause 1 passed.

Clause 2—'Removal from and vacancies of office.'

The Hon. J.C. BURDETT: I move:

Page 1, lines 16 and 17—

Leave out the clause and substitute new clause as follows;

2. Section 11 of the principal Act is amended by striking out from subsection (5) the passage 'be so appointed only for the balance of that term' and substituting the passage—

'be appointed—

(a) in the case of a person appointed to replace the Chairman of the commission, for a term not exceeding seven years;

and

(b) in the case of a person appointed to replace a part-time member of the commission, only for the balance of the term of his predecessor.'

The explanation of the Bill indicated, and the Minister indicated, the need for the appointment of a Chairman. We are willing to accommodate that. We acknowledge that the appointment of the Chairman should be for seven years. There does not appear to be that need in regard to the part-time commissioners. The amendment provides for the new Chairman to be appointed for seven years. It provides that other members of the commission, the part-time members, shall serve for the remainder of their term. The Minister has indicated that he will introduce legislation in the spring session. We will deal with that then. For the time being I am happy for the Minister to be able to appoint the Chairman. Notwithstanding that, I do not see why Parliament should be fussed by this need, and I do not see why that requires any other change to the system.

Existing clause struck out; new clause inserted.

Title passed.

Bill read a third time and passed.

CONSTITUTIONAL CONVENTION

Adjourned debate on the motion of the Attorney-General:

That the following resolution of the House of Assembly be agreed to:

That whereas the Parliament of South Australia by joint resolution of the Legislative Council and the House of Assembly adopted 26 and 27 September 1972 appointed 12 members of the Parliament as delegates to take part in the deliberations of a convention to review the nature and contents and operation of the Constitution of the Commonwealth of Australia and to propose any necessary revision or amendment thereof and whereas the convention has not concluded its business now it is hereby resolved:

(1) That all previous appointments (so far as they remain valid) of delegates to the convention shall be revoked;

(2) That for the purposes of the convention the following 12 members of the Parliament of South Australia shall be appointed as delegates to take part in the deliberations of the convention: the Hons J.C. Bannon, F.T. Blevins, M.B. Cameron. G.J. Crafter, B.C. Eastick, E.R. Goldsworthy, K.T. Griffin, T.M. McRae and K.L. Milne, Mr Olsen, the Hon. C.J. Sumner, and Mr Trainer;

(3) That each appointed delegate shall continue as a delegate of the Parliament of South Australia until the House of which he is appointed otherwise determines, notwithstanding a dissolution or a prorogation of the Parliament;

(4) That the Premier for the time being as an appointed delegate (or in his absence an appointed delegate nominated by the Premier) shall be the Leader of the South Australian delegation;

(5) That where, because of illness or other cause, a delegate is unable to attend a meeting of the convention the Leader may appoint a substitute delegate;

(6) That the Leader of the delegation from time to time make a report to the House of Assembly and the Legislative Council on matters arising out of the convention, such report to be laid on the table of each House;

(7) That the Attorney-General provide such secretarial and other assistance for the delegation as it may require;

(8) That the Premier inform the Governments of the Commonwealth and the other States of this resolution.

(Continued from 23 March. Page 583.)

The Hon. M.B. CAMERON (Leader of the Opposition): It is with some reluctance that I support the motion in its present form, because there is one point on which there has been an alteration in the constituent membership of the group who will represent this Parliament. The member for Flinders has been replaced by the Hon. Lance Milne. I do not wish to reflect in any way upon the ability of the Hon. Mr Milne to adequately represent the views of this Parliament. However, it is important and desirable, when a convention of this sort, which is on a continuing basis, is

meeting at times which differ and which do not necessarily adhere to elections in any one State, that wherever possible members of the convention remain the same.

I know the arguments that have been advanced in support of this change. One is that the Australian Democrats now have two members. That situation has not changed since the last time this matter was debated. The Australian Democrats had two previously: one in another place and one in this Council. So, I do not believe that that is an adequate argument. However, this motion has now been carried in another place and I do not suppose that it is for us to direct the Government of the day, although it is a matter that should be subject to agreement between the Parties. It is always difficult to obtain that. I know that the Attorney-General indicated that this would be the most significant convention since the time of the setting up of the Federal Parliament. I think he was getting carried away a little.

The Hon. L.H. Davis: That was after a good lunch.

The Hon. M.B. CAMERON: Yes. I do not want to decry the meeting: it will be important. However, if it is that important, then it is important that wherever possible the people who represent this Parliament should be kept the same. We have done that from our side. We have the same two members representing the Opposition from this Parliament. From time to time change is caused by either resignation or defeat of members who represent the Parliament at the convention. However, it bothers me that we have changes in the constituent membership of the group. Nevertheless, this motion has our support and I hope that the delegation is able, with the rest of the convention, to obtain changes that will make the actions of Parliament and the running of this country better, and make Australia a better place in which to live.

Motion carried.

TRANSPLANTATION AND ANATOMY BILL

Adjourned debate on second reading.

(Continued from 23 March. Page 575.)

The Hon. L.H. DAVIS: I commend the Government for the introduction of this important legislation which largely follows the model Bill set down in the Law Reform Commission Report on Human Tissue Transplants published in 1977. Similar legislation was enacted in the Australian Commonwealth Territory in 1978, in Queensland in 1979, in the Northern Territory in 1979 and, most recently, in Western Australia in 1982.

As yet this legislation has not been introduced in New South Wales, Victoria or Tasmania and I am uncertain as to whether there are proposals to introduce it in those other States, although one would hope that they would follow the recommendations of the Law Reform Commission in this matter. I accept the Hon. Anne Levy's point and the comments of the Minister that uniformity of legislation on matters of this nature is highly desirable if it can be achieved, and fortunately that appears to be true thus far.

Mr Justice Windeyer, a distinguished High Court Judge, made an observation which is perhaps apt in discussing the legislation now before the Council. He said that the law marched with medicine 'but in the rear and limping a little'. This is not surprising perhaps, given the rapid development in medical science that we have seen over the last two decades: transplants involving hearts, kidneys and livers, *in vitro* fertilisation, the concept of brain death following the introduction of artificial ventilators, and the ability to remove organs from a dead person. These were issues for which the common law had no ready answer.

The extraordinarily rapid developments in the field of medicine are underlined by the fact that this legislation makes specific reference to the exclusion of foetal tissue, spermatozoa and ova. That also underlines the fact that in years to come legislators in Australia will have to deal with some of the matters that I have alluded to.

The Australian Kidney Foundation publishes an annual dialysis and transplant registry for both Australia and New Zealand. It is pleasing to note that hospitals in both countries hold data on every transplant ever performed in Australia and New Zealand and on all patients dialysised since 1971. Obviously, that information will be invaluable in determining, for example, success rates in the treatment of renal failure, whether by dialysis or transplant, general statistical analysis and a useful exchange of information between hospitals that practise dialysis and transplantation in Australia and New Zealand.

The Chairman of the registry is Dr Tim Mathew, Director of the Renal Unit at the Queen Elizabeth Hospital. The register is published by a group who are resident at the Queen Elizabeth Hospital. Dr Mathew, along with others in Adelaide, has been a leading figure in renal medicine in Australia, as was mentioned in the second reading explanation. As I have said, I am pleased that the Government has so readily introduced this legislation, which was prepared by the previous Government. However, I was a little disappointed that there was no specific reference to the figures in relation to transplants. I believe that it is appropriate to refer briefly to the number of people receiving kidney transplants and the numbers receiving dialysis. Mr President, I seek leave to incorporate in *Hansard* a statistical table which sets out these figures.

Leave granted.

TRANSPLANT ACTIVITY, FUNCTIONING TRANSPLANTS AND DIALYSIS PATIENTS—31.10.82

	Transplant Operations			Functioning Transplants			Dialysis Patients		
	No.		Per Mn	No.		Per Mn	No.		Per Mn
Australia	414	(51)*	27	1 644	(168)*	108	1 762	(52%)†	116
Queensland	73	(5)	30	223	(7)	92	236	(31%)	98
New South Wales	160	(21)	29	683	(70)	123	763	(61%)	138
Victoria	117	(10)	29	437	(57)	110	431	(52%)	108
South Australia and Northern Territory	43	(13)	29	178	(24)	122	174	(48%)	119
Western Australia	21	(2)	16	118	(10)	89	127	(37%)	95
Tasmania	0	(0)	0	5	(0)	12	31	(87%)	72
New Zealand	62	(9)	20	257	(43)	81	334	(71%)	106

Transplant operations: 1 November 1981 to 31 October 1982.
Functioning transplants and dialysis patients at 31 October 1982.
*Living donor grafts: † % Proportion of home dialysis patients.
Per Mn: Number of patients per million population.

The Hon. L.H. DAVIS: The table shows that a total of 414 patients received kidney transplants in Australia for the year ending 31 October 1982. Incidentally, 353 were first transplants, 72 were in receipt of second transplants and seven were receiving their third transplant. The table shows that 43 transplants were conducted in South Australia and the Northern Territory, and 13 of those patients received a kidney from a living donor (in other words, one transplant in three involved a living donor). In comparison, little more than 12 per cent of the Australian total for that same year (that is, 51 out of 414) had a living donor graft.

I understand the limited availability of cadaver donor kidneys and the generally better survival rate of living donor kidneys has helped increase the number of living donors. I am sure the Minister is well aware that there is great difficulty in attracting sufficient donors for people who suffer from renal failure. However, of the total number of 178 functioning transplants in South Australia, only 24 (or 13 per cent) were the result of live donation, and that is much closer to the Australian average. The figure of 178 is the total number of people in South Australia who have received a kidney transplant over the last decade or so since kidney transplants have been available.

The table also shows that, with 1 644 functioning transplants and 1 762 dialysis patients, there are over 3 400 patients in Australia who have received or are receiving often lifesaving and yet necessarily effective treatment. The annual increase in the number of patients receiving dialysis or transplantation seems to be in the order of at least 10 per cent. I understand that as of March 1983, 58 South Australians are waiting for a transplant and 45 patients are being prepared for active transplant call, that is, a total of 103 patients require a transplant.

Nine per cent of new patients in South Australia are in the age group zero to 19 years. That is relevant, given the debate on the subject of children donating tissue. I point out 41 per cent of new patients are in the 40 to 59 years age group.

The statistics also highlight the primary cause of renal failure. Over the last three years, on average, about 20 per cent of new patients with renal failure in Australia (that is, 304 out of 1 560) suffered from excessive consumption of compound analgesics. That is in sharp contrast to New Zealand, where for the same period only 3 per cent of new patients were admitted with renal failure as a result of the excessive consumption of compound analgesics. This condition is more common in females. The damage from compound analgesics is obviously enormous and that fact has been recognised in recent years by legislative action in most States of Australia.

Put simply, if a person takes two or three tablets containing compound analgesics each day for many years he or she must be prepared to accept the possibility of renal failure often resulting in death or at best a life hooked to a machine for up to six hours a day and three days a week at a cost to taxpayers of a minimum of $25 000 per year for hospital dialysis treatment (I understand that home dialysis costs between $10 000 and $15 000).

In addition to the legislation, which the Minister referred to in some detail in his second reading explanation, reference was also made to the code of practice for transplantation, which was prepared in August 1982 by the National Health and Medical Research Council. This code sets out guidelines for hospital staff involved in organ transplantation and staff of hospitals which may have potential donors but little experience in procedures associated with the removal of organs for transplantation. Page 3 of the code refers to delays for people receiving a kidney transplant, as follows:

> One of the reasons for these delays is the lack of awareness on the part of both the public and the medical profession of the extent of the shortage of donors, of the high degree of success which now results from organ transplantation, and of the benefits it brings to patients. It is estimated that of those involved in traffic accidents and who die in hospital at least 8 per cent would be suitable kidney donors and many more would be suitable corneal donors; at present only 2 per cent of those who die from road accidents become kidney donors.
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> This code is for use by all relevant professional groups, but particularly by medical, nursing and administrative staff in hospitals where removal of organs from bodies for the purpose of transplantation takes place. It is also for use by the staff of hospitals which may have potential donors but little experience of the procedures leading to organ removal. It is hoped that the information in the code will help to overcome the hesitancy of hospital staff to identify among their dying patients those who are potential donors, and help also to overcome their hesitancy to initiate procedures leading to transplantation.

Members should be aware of this code of practice for transplantation of cadaver organs, as it is a significant breakthrough. The Hon. Mr DeGaris, by way of interjection, asked the Minister whether he intended to legislate for this code, either by way of a Bill or through regulations. I was not sure whether the Hon. Mr DeGaris was serious in his comments, but I would hope that this code remains in its present form, namely, as an important reference point for all people dealing in transplantations—it is their Bible.

The information in this document has been carefully put together by experts here and overseas and refers to a variety of subjects. It talks of authority to remove organs for tissue; the need for records; choice of donors; approach to relatives; coroner; diagnosis; definition of death; post-mortem treatment; distribution and transport; and some other very useful matters in its 35 pages. I think it is sensible, in a field that is ever changing, that it remains a code of practice that is regarded as essential reading for any person involved in this field.

The Hon. J.R. Cornwall: You wouldn't object to its being incorporated in regulations?

The Hon. L.H. DAVIS: In the sense that it is reviewed fairly regularly, I do not necessarily see the need for it to be in regulatory form. I do not know what the people engaged in this field think about this, but I am sure that all of them feel a great responsibility. They have all had a part to play in this matter, given that there are not a large number of people involved in this area at the present time. I would have preferred to leave this as a code of practice which is not prescribed by regulation. That is my view and I would need some persuading to change my mind on this point.

The Hon. J.R. Cornwall: I am perfectly flexible—I will do what is best for South Australia.

The Hon. L.H. DAVIS: The matters contained in this legislation have been canvassed in excellent contributions from the Hons Mr Burdett, Miss Levy, Mr DeGaris and Dr Ritson. There are, therefore, only two or three points to which I will now refer briefly. First, there is the great problem that exists at present in getting adequate donors. I understand that some people wishing to have a kidney transplant must be supported for up to three years on a dialysis machine before that transplant is performed. I think that honourable members would agree that introducing this legislation gives publicity to this matter and the formalising of existing practice removes the uncertainties and doubts that may exist with regard to transplants. It certainly improves the status of the donor card. Therefore, it may, hopefully, increase the number of donors.

I am informed that, although there have been moves in Victoria and Western Australia to provide for people wishing to donate organs in the event of their death to have that wish noted on their driving licence, the initial result, in Victoria at least, has not shown any improvement in the number of people coming forward to donate organs. However, these are still early days and one cannot be too hasty

in drawing one's conclusions. The Minister would be well aware of the lobbying that has taken place from time to time seeking the inclusion of a statement of intent with respect to donation of organs on people's driving licences. I am well aware that this would be a costly procedure and may not be the best procedure available. However, I hope that members of all Parties, and the Minister in particular, will continue to pay attention to this important point to ensure that there is an adequate supply of organs available for transplant, whether they be kidneys, corneas, or, perhaps in time, livers.

I turn now to the point raised by the Hon. Mr DeGaris relating to the donation of non-regenerative tissue by children. The Act presently provides that children under the age of 18 years can provide regenerative tissue for transplants provided certain provisions prevail, but cannot provide non-regenerative tissue. I have some sympathy with the argument put forward by the Hon. Mr DeGaris in which he said that perhaps that age could be dropped to 16 years. That is a fine and difficult point. However, I am inclined to the view that the age should be left at 18 years in such cases, but this is a matter that should be kept under review. It is my understanding that all other States have adopted 18 years as the appropriate age in this matter, except for Queensland.

The Hon. J.R. Cornwall: They didn't make it 35.

The Hon. L.H. DAVIS: No. My other point is that in Western Australia they appear to have gone a little further than we have in clause 24 in relation to medical practitioners certifying death. Clause 24 (2) states:

> Where the respiration and the circulation of the blood of a person are being maintained by artificial means, tissues shall not be removed from the body of the person for the purpose or a use specified in subsection (1) unless two medical practitioners (each of whom has carried out a clinical examination of the person, and each of whom has been for a period of not less than five years a medical practitioner) have declared that irreversible cessation of all function of the brain of the person has occurred.

In Western Australia they have gone a step further and require that at least one of those medical practitioners should hold specialist qualifications in general medicine, serology or neurosurgery, or have such other qualifications as are required by the commissioner. I do not have a strong view on that point and merely produce that statement by way of comment, given that the Western Australian legislation has been produced within the past few months. I am quite happy with the existing provisions of clause 24, given the code of practice and the other safeguards in the legislation.

Essentially, therefore, there is unanimity on the need for legislation and the benefit that is attached to it. The very small differences that exist in respect of this Bill could be best resolved in the Committee stage. I support the second reading.

The Hon. FRANK BLEVINS: I support the motion. I want to congratulate all the people who were involved in bringing this Bill before Parliament, including the present Minister, the previous Minister of Health, and the department, which I know has laboured hard and long over this legislation. I suppose, going back even further, I should also congratulate Mr Justice Kirby, as I believe that the legislation had its genesis in his very fine mind.

I want to make two points. In relation to Part III, the Hon. Mr DeGaris reminded me of a position that I have been advocating for some years in this Council, and that is the question of contracting out, or allowing one's tissue to be automatically available for transplantation after death. On many occasions I have asked previous Ministers of Health whether it was possible to examine the position whereby people could contract out rather than our having the present system of contracting in. It would be automatically assumed, unless evidence was available to the contrary, that the patient had no objection to any tissue being removed from his body after he died.

Along with many other things, one of the failures of my Parliamentary career is that I have had no success in this matter. This Bill is moving some way in that direction, and I believe that the situation can best be described as a compromise, involving contracting in and contracting out or, if you like, a hybrid. I hope it works.

I just do not understand how society can condone burying tissue which, if used, would increase enormously the quality of life of the living, or would even give life to the otherwise dying. In many cases, particularly in the case of renal failure, without a transplant a person will die. There is no question of that at all. Burying or cremating tissue that could give a person a much longer and fuller life is absolutely absurd.

At present, there is a very grave shortage of kidneys that are suitable for transplantation. I hope that this Bill will resolve that shortage. If it does not have that effect and if the position remains pretty much as it is, I will certainly continue to pursue the views that I hold—that contracting out is a position towards which we should move. I strongly believe that a very small minority of people in the community would object to the contracting out provision. I believe that the timidity of members of Parliament has prevented this action. Because of the timid way in which we have approached the question, people are dying because we do not have the guts to do something about it. I hope that the passage of this Bill solves the problem. If it does not do that, I hope that we will have the guts to do something about the matter in a meaningful way.

I wish to refer to one other matter that was raised by the Hon. John Burdett relating to clause 29, Part V, regarding the presentation to an anatomy school of dead bodies for educational purposes. In logic, the position is exactly the same as is the position I espoused on the question of tissue donations. I believe that the overwhelming majority of people who are asked before they die whether they would object to this action would say that they have no objection at all to their body being donated to schools of anatomy for educational and scientific purposes. That is in logic.

However, there is an intervention of emotion in this logical train of thought. Because of the emotional connection with this question, I tend to agree with the Hon. John Burdett. If it is a straight-out logical question on a piece of paper about which I had to make a decision, it would not take me two minutes to think out the matter and say, 'Sure, the position is exactly the same.' However, I concede that some people would be emotionally offended by, in effect, disposing of a dead body to schools of anatomy. I can see that some people would react against that.

If there was any shortage of dead bodies for schools of anatomy, I would tend to come down on the side of the Bill. Because, to my knowledge anyway, there is no shortage of people who are happy to bequeath their bodies to schools of anatomy, there is really no problem, and, if there is no problem to solve, I believe that we can allow ourselves the luxury of indulging our emotions. Therefore, I would be interested to hear the Minister's response to the debate on clause 29. I commend the Hon. John Burdett for raising this point (and it is an important point, which he raised very well).

Close to the end of his address to the Council, the Hon. Mr Burdett stated:

> I point out that the designated officer, the administrator of the hospital, is a person who could be said to have a vested interest not to make extensive inquiries for the next of kin.

I believe that that was a gratuitous comment and was totally unwarranted. It spoiled what I thought was an excellent speech by the Hon. Mr Burdett, and I cannot understand why he made that comment and what has occurred to prompt him to think that that will occur. I have the highest regard for administrators of any hospital, and even to suggest, as the Hon. Mr Burdett did, that they would not make the inquiries that are necessary under the provisions of the Bill because they have some particular desire to retain that body within the hospital for education or scientific purposes is, I believe, highly offensive and would have been better left unsaid.

This Bill goes some way towards dealing with the enormous problems of pace in society, with the advance of technology and the slowness with which the law works. This matter was referred to by the Hon. Mr DeGaris. While the honourable member made his point very well, I believe, with great respect, that that point was made more clearly by Mr Justice Kirby. The Hon. Mr Justice Kirby, in the Malcolm Gillies oration that was given in Sydney on 22 September 1980, entitled 'New dilemmas for law and medicine', in his conclusion, stated:

> What I have said about transplants, the right to die and truth telling could be expanded into an essay of much greater length on the other medico-legal issues that confront us today. Developments in modern medicine stretch the boundaries of the law and of medical ethics. They also test our notions of morality. Test tube fertilisation, the conduct of clinical trials, genetic manipulation, the use of foetal material, the treatment of the intellectually handicapped, the whole issue of abortion, patenting medical techniques and biological developments, the problems of artificial insemination by donor, sterilisation, castration, psycho-surgery, the compulsory measures for health protection, human cloning, and so on, lie before us. Each of these developments poses issues for medical practitioners. But each also poses complex problems for the law and for society governed by the law.
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> It is undesirable for the law to get too far ahead of community understanding and moral consensus in such things. But there is an equal danger, as it seems to me, in an ostrich-like refusal to face up to the legal consequences of medical therapy that is already occurring. According to Sir Macfarlane Burnet, 'infanticide' on compassionate grounds already occurs in 'monstrous' cases. Artificial insemination is occurring in Australia on an increased scale because of the fall-off in the availability of children for adoption. *In vitro* fertilisation recently proved successful in a Melbourne hospital. Various forms of experimentation in genetic engineering already take place in Australia. Hospital ventilators are turned off. Transplant surgery is a daily reality.
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> Moral, ethical and legal problems will not conveniently go away because the law is silent upon them. Unless the law can keep pace with these changes, there will be inadequate guidance for the medical profession when guidance is most needed. Laws of a general kind, developed in an earlier age to address different problems, will lie in wait for their chance, unexpected operation upon new unforeseen circumstances.
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> I hope that our society will be courageous and open-minded enough to face up to these problems and not to sweep them under the medical and legal carpet. Truth telling extends from our professions to society as a whole. What we need are doctors and lawyers (and I should say philosophers, churchmen, patients and clients) who will be prepared to debate publicly the dilemmas forced on us by the advances of science and technology. Procedures of law reform bodies can be adapted as a medium for this interchange between expert and citizen. What is needed is effective machinery to find Australian solutions for the guidance of conscientious doctors and distracted (and often timorous) lawmakers.
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> There are no easy solutions to any of the problems I have mentioned. But until we start to ask the questions, and face the dilemmas, our society will continue to shuffle along in directions in which we would not choose to travel and to destinations at which we would not choose to arrive.

I think that honourable members in this Council will agree that that was an excellent conclusion to a very valuable dissertation by Mr Justice Kirby on one of the very important questions of the day. I am not a pessimist in this area: I am an optimist. I believe that this Parliament, particularly this Council, will have a significant role in the not too distant future in looking at these types of problems. There are volumes of law reform reports with recommendations, and little, if anything, is happening. I have confidence that the Labor Party, with the assistance of every member in this Council will, over the next 12 months to two years, make an enormous effort to see that those law reform recommendations and the machinery to enable those recommendations to be implemented are established in this Council so that all this work that is being done by commissioners, such as Mr Justice Kirby and others, is not wasted but made available not just in report form but in concrete Statute form to the citizens of South Australia and, indeed, Australia. I support the motion.

The Hon. DIANA LAIDLAW secured the adjournment of the debate.

ABORIGINAL LANDS TRUST: COOBER PEDY

The House of Assembly transmitted the following resolution in which it requested the concurrence of the Legislative Council:

> This House resolves to recommend to His Excellency the Governor that, pursuant to section 16 (1) of the Aboriginal Lands Trust Act, 1966-1975, section 1257, out of hundreds and allotment 1430, town of Coober Pedy, be vested in the Aboriginal Lands Trust.

MOTOR VEHICLES ACT AMENDMENT BILL

Received from the House of Assembly and read a first time.

SUPREME COURT ACT AMENDMENT BILL (No. 2)

Returned from the House of Assembly without amendment.

ADJOURNMENT

At 5.58 p.m. the Council adjourned until Tuesday 29 March at 2.15 p.m.