LEGISLATIVE COUNCIL

Tuesday 28 August 1984

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

PAPERS TABLED

The following papers were laid on the table:

By the Minister of Health (Hon. J.R. Cornwall):

Pursuant to Statute—

Local Government Act, 1934—Regulations—Qualifications Committee.

Planning Act, 1982—Crown Development Report by South Australian Planning Commission on Alterations to the Residence at the Belair Recreation Park, Caravan Park.

Betting Control Board—Report, 1983-84.

South Australian Health Commission Act, 1975—Regulations—Health Services Advisory Committee.

Corporation of Hindmarsh—By-law No. 22—Dogs.

District Council of Cleve—By-laws—

No. 32—Repeal of By-laws.

No. 33—Amendments to Existing By-laws.

By the Minister of Agriculture (Hon. Frank Blevins):

Pursuant to Statute—

Boating Act, 1974—Regulations—Fees.

Sewerage Act, 1929—Regulations—Water Service Fees.

Waterworks Act, 1932—Regulations—Water Service Fees.

QUESTIONS

WINE TAX

The Hon. M.B. CAMERON: I seek leave to make a statement before asking the Minister of Agriculture a question about wine tax.

Leave granted.

The Hon. M.B. CAMERON: In the past financial year the State Government increased its liquor licence fees to the highest in Australia. The fees are payable on the wholesale value of purchases by liquor retailers. As a result of the imposition of a wine tax last week by the Federal Government, wholesale wine prices are expected to increase by 10 per cent. Based on present levels of receipts and sales it is likely that this will produce a windfall to the State Government of between $800 000 and $1 million in higher receipts from liquor licence fees.

Members interjecting:

The Hon. M.B. CAMERON: There are some wholesale sales as well. Late last year, after the Opposition exposed a major miscalculation by the Government in receipts from higher liquor licence fees, the proposed increase from 9 per cent to 12 per cent was limited to 11 per cent. However, the Government refused to amend the legislation and the 12 per cent rate remains on the Statute Book. A reduction in the liquor licence fee (which in this case could become a tax on a tax) by even as little as 0.5 per cent, from 11 per cent to 10.5 per cent—and even if the Government felt that it should alleviate the situation, it could give wine producers a reduction in the tax—could help alleviate the negative impact of the sales tax. In view of the Government's concern for the wine industry, expressed by the Minister and the Premier, will the Minister make immediate representations to the Premier to have the liquor licence fees cut to help limit the impact of the sales tax?

The Hon. FRANK BLEVINS: I will draw the honourable member's question to the attention of the Treasurer and bring down a reply through the Leader in the Chamber.

HEALTH COMMISSION CARS

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Health a question about the use of Health Commission cars.

Leave granted.

The Hon. J.C. BURDETT: I refer to an article which appeared in yesterday's *Advertiser* headed, 'Protesters "ferried in Government car" ', and which states:

Olympic Dam—A South Australian Health Commission car was allegedly used to ferry anti-uranium protesters from Port Augusta last week. Police saw the car dropping protesters at the blockade base camp near here. Apparently the vehicle, a Holden sedan, was supposed to be in Coober Pedy at the time.

Police did a registration check and the Minister of Health, Dr Cornwall, was told. The deputy commander of police operations here, Superintendent P.C. Dowd, said last night police had no comment.

Dr Cornwall said last night he had been told on Friday that two temporary employees helping to gather information for the Maralinga Royal Commission had been at the protest. It had been suggested they may have carried other people in the car. I simply said 'Send them a message to tell them to get out of it and go about their business,' Dr Cornwall said. He said there would be no further action.

After that episode, if I had been Minister the two temporary employees might have been very temporary. My questions are: is it a fact that a Health Commission car was used to ferry anti-uranium protesters to Roxby Downs? Is it a fact that two temporary employees were at the protest at Roxby Downs? Is it a fact that the vehicle should have been at Coober Pedy at the time and, following the reporting of this extraordinary event, is it really the case that the Minister proposes to take no further action, even apparently by way of investigation; and, if this is the case, why does the Minister propose to take no further action?

The Hon. J.R. CORNWALL: For reasons that I will explain in some detail. The Hon. Mr Burdett ought to try to get some of his facts together before he goes off half-cocked. First, I confirm that a Government vehicle was at Roxby Downs on the date reported and it was the property of the Aboriginal Health Organisation. As to the allegations that protesters were carried in the car, I will read to the Council—

The Hon. R.C. DeGaris: Was there only one car?

The Hon. J.R. CORNWALL: There was only one car, and two occupants; I will come back to that in a moment. A memo to the Minister of Health, dated 28 August 1984, over the signature of the Commissioner of Police, Mr Hunt, says:

Herewith are copies of all telexes sent and received in connection with the attendance of Health Commission members at Roxby Downs. The telexes are accompanied by a copy of a prepared report after communication with the current Commander at Olympic Dam this date, together with a copy of the *Advertiser* report of yesterday. A further check this date has revealed that at no stage were protesters sighted in the South Australian Health Commission car and no information was supplied by police to the press concerning the matter.

Please note! The two people who were in the car were a Mr Harradine and a Mr Smith, both Aborigines, currently employed as Aboriginal Information and Liaison Officers on a temporary contract basis to assist in compiling oral histories and genealogies for the Maralinga Inquiry, a component of the Royal Commission into atomic testing.

On 20 August 1984, Harradine and Smith left Adelaide on an authorised trip to the Coober Pedy area, via Port Augusta, for the purpose of interviewing certain Aboriginal people. They were to return to Adelaide on 25 August 1984. Similar trips have previously been made to Ceduna and Yalata.

On 24 August 1984, the police reported sighting the vehicle that they had been allocated at the Aboriginal camp at the blockade site at Olympic Dam. Harradine and Smith were

approached by police and they identified themselves as working for the Maralinga Inquiry. A police liaison officer promptly informed staff of my office of this situation. The status of Harradine and Smith was confirmed, that is, that they were, indeed, temporary employees of the task force that is working to the Royal Commission, formerly the inquiry that I established last year.

The police were requested by one of my officers, on my instructions, to advise them to leave the area and return to Adelaide. At that time I did not know any further details. There had been a suggestion that perhaps they were ferrying blockaders or protesters. There is no doubt, from advice I have received following investigation by the Commissioner of Police, that that suggestion was erroneous, so the honourable member should not have jumped to the conclusion that there was—

The Hon. J.C. Burdett: I asked the Minister to respond to the report.

The Hon. J.R. CORNWALL: The Hon. Mr Burdett asked some erroneous questions and now has egg all over his face. When the status of Harradine and Smith was confirmed, the police—

The Hon. C.M. Hill interjecting:

The Hon. J.R. CORNWALL: If the honourable member is proud of the shadow Minister of Health's denigrating Aboriginal people going about their business, then he has as big a problem as has the shadow Minister. One of my officers, acting on my instructions, requested police to advise them to leave the area and return to Adelaide. I think that it was unwise of them to be there, and I think that that premise would have a degree of support. There was nothing sinister, strange or, as far as I can gather from the words of the Police Commissioner, certainly nothing illegal about their presence.

They had already left the area by the time police received the message from my office. The vehicle was returned to the Government Garage on the morning of 27 August 1984—yesterday. It is understood that Harradine and Smith were unable to contact all the Aborigines they wished to interview in the immediate vicinity of Coober Pedy, so had travelled west seeking those persons. It has not been possible at this time to confirm this point with either Harradine or Smith, or with the consultant supervising their work, Mr John Tregenza, who is working at this time in remote areas of the West Coast of South Australia.

In summary, the trip was authorised as part of the Maralinga Inquiry. At no stage were blockaders sighted in the Government vehicle. Although there is an allegation that the persons involved were overheard discussing transport arrangement for blockaders, this issue cannot be resolved until the two persons concerned have been interviewed. Investigations are continuing.

I now return to the report that appeared in the *Advertiser* yesterday. I was rung at 10.15 p.m. on Sunday following a report being sent from Roxby Downs by Bob Ball of the *Advertiser*. Unlike the information he normally receives, which is 100 per cent spot on, that was a pretty garbled version of the events as I knew them. I spoke to a senior reporter from the *Advertiser* and detailed to him the events as I knew them from last Friday. Subsequently, the words attributed to me, and read out by the Hon. Mr Burdett, appeared in the *Advertiser*. The only part that was not accurate was that no further action would be taken.

I will not repeat what I said to the reporter off the record as to what action I thought perhaps would be appropriate, but there is no question that at that time, if the events were as reported, I believed that it was entirely appropriate that the persons involved should be reprimanded, at least for showing a substantial lack of judgment in being in the area. Let us remember that one of those people is a tribal Aboriginal who does not have the sophisticated morés and manners of people such as the Hon. Mr Burdett. The other person is also engaged on a temporary basis. So one could hardly expect them to have the sophistication, and perhaps the judgment, of senior long-term public servants.

As I said, investigations are proceeding. If, in the event, it is my judgment or I am advised that there were serious breaches of the conditions of employment, then it may be appropriate for these people to be dismissed. Of course, that would not be my decision, because they are not my employees. In fact, they are now employed by the Royal Commission—they are on the pay-roll, but paid out of money provided by the Royal Commission. So, I am not able to dismiss them, but I am in a position to get to the heart of the matter and find out why there was an Aboriginal health organisation car there, and I intend to do so. Certainly, there is nothing sinister and no suggestion that these people were involved in organising some sort of major blockade or that they were involved in inappropriately using a Government car. I would have thought, on balance and on what information is available to me at the moment, that they were, however, somewhat lacking in common sense to be in that area at that time.

ABORTION ON DEMAND

The Hon. K.T. GRIFFIN: My question is directed to the Attorney-General. In the light of the ALP Federal Conference policy decision to allow abortion on demand, does the Government have plans to adopt that policy by amending the law of the State? If so, what are those plans?

The Hon. C.J. SUMNER: No. The question of abortion is dealt with in this Parliament on the basis of a conscience vote, and that is still the situation.

MURRAY RIVER

The Hon. K.L. MILNE: I seek leave to make a brief statement before asking the Attorney-General, representing the Premier, a question concerning the desecration of the banks of the Murray River.

Leave granted.

The Hon. K.L. MILNE: My recent study tour of the Murray River impressed on me the need to take action to prevent the felling of trees along its banks. Given the increasing cost of electricity, gas and oil it appears that trees are being felled, mainly with chain saws, for domestic heating and selling. This problem is especially apparent from Waikerie to Barmera and appears to be spreading. The desecration around Lake Bonney is so bad that a special committee has been set up to stop this practice and to replant trees.

Tourists cause additional damage by collecting wood to use for fires on which to cook and to provide warmth. Not only is the destruction of trees deplorable but it also has adverse long-term implications in respect of the tourist industry, erosion and the habitat of native animals. I have outlined these matters and my proposals in a document on the degredation and desecration of the banks of the Murray River, and you Mr President and, I hope, the Attorney-General, have a copy of that document.

In that document, I have made a series of suggestions concerning the policing of the river, including placing notices in parks, zoning, education, and so on. I received from the Premier a reply dated 21 August, which was written after he received a copy of the report I also sent to him. In his letter the Premier says that he will particularly raise the matters I mentioned with the Minister of Tourism, the Minister for Environment and Planning and the Minister

of Water Resources. That is good news; we have to start somewhere. The Premier's Department is obviously the Department that will have to act as convener and catalyst. Since my study tour it has come to my attention that the combination of chain saws and the trend towards pot belly stoves is also causing considerable concern outside South Australia.

In the ACT, for example, seven persons were successfully prosecuted last year and damage to rural land is so great that farmers have launched their own publicity campaign, in addition to that conducted by the Government, which also has conservation officers patrolling rural land. Across the border in New South Wales the problem appears to be just as bad, and prosecutions are possible under the Enclosed Lands Act. I am quite certain that my predictions are, unfortunately, correct and that the matter is rapidly growing worse.

In view of the importance of the problem and the necessary co-ordination of the resources of several Government departments to combat further damage, for example, the Departments of Lands, Police, Environment and Planning, Tourism, and Local Government, does the Premier intend to treat the matter as urgent? If so, what action does he intend to take?

The Hon. C.J. SUMMER: I will seek a reply from the Premier and advise the honourable member of the result.

YOUTH UNEMPLOYMENT

The Hon. R.C. DeGARIS: I seek leave to make a brief explanation before asking the Attorney-General a question on youth unemployment.

Leave granted.

The Hon. R.C. DeGARIS: The Hon. Lance Milne, in his Address in Reply speech, stated:

> We raised the compulsory wage and salary levels for our young people to such an extent that, as they are untrained and expensive, few businesses can afford to employ them, while others refuse to engage them in favour of more experienced staff.

I interjected, 'That is one of the disasters for young people.' In today's *Advertiser* a gentlemen called John Stone is reported as follows:

> Mr Stone said minimum wage rates were the main reasons for high youth unemployment. 'There is no single fact more disgraceful to the conduct of our national affairs today than the manner in which we have permitted—and are still permitting—more than 25 per cent of 15 to 19 year olds in the workforce to be unemployed', Mr Stone said.

I do not expect the Government to agree with John Stone but, when both the Hon. Lance Milne and I agree with him, it is time the Government answered the question. Is the Government aware that 25 per cent of 15 to 19 year olds unemployed are unemployed because of the minimum wage rates for young people? Will the Government examine the question and report to Parliament on whether that is one of the causes of youth unemployment?

The Hon. C.J. SUMNER: I am aware of the problem of youth unemployment, but I suggest that the opinions advanced by Mr Stone and by the Hons Mr Milne and Mr DeGaris are not universally held throughout the community. They are opinions that have been expressed from time to time. The problem with the question of unemployment is that one viewpoint says that unemployment is caused by wage levels that are too high. That, presumably, is the view to which Mr Stone, Mr Milne and Mr Degaris adhere. There is another view that unemployment is caused by more fundamental structural problems in the Australian economy and the ecomomies of the western world. There does not seem to be a meeting of minds on a particular analysis of the problems of unemployment, which undoubtedly exist.

I cannot accede to the honourable member's proposition that everyone would agree with what Mr Stone says about youth unemployment. One can, however, agree that the problem needs to be addressed. The question of youth wage rates is also a matter that, presumably, can be looked at in this context along with many other factors.

The Government has the question of unemployment under review at all times. The Government has taken significant action in this area since coming to office and, as the honourable member will know, although we had the worst unemployment situation in Australia in November 1982, that situation has improved since then to some extent. Other initiatives have also been taken by the State Government to try to address the problems of young people in the work force. I do not believe that I need to reiterate those or to assess Mr Stone's remarks today, beyond saying that there is a problem of young people being unemployed and action is being taken by this Government to address the problem.

INTRODUCTION AND MARRIAGE AGENCIES

The Hon. J.C. BURDETT: I seek leave to make a brief explanation before asking the Minister of Consumer Affairs a question about introduction and marriage agencies.

Leave granted.

The Hon. J.C. BURDETT: At about the end of June this year a series of advertisements were inserted in the *Advertiser* by the Department of Public and Consumer Affairs saying that the Government was considering holding an investigation into introduction and marriage agencies and asking people who had had recent contact with such agencies to come forward. Since then I understand that an investigation has been held, or may still be in the process of being held. I have been contacted by apparently reputable agencies in that area which tell me that since those advertisements were placed in the press their business has dropped by 75 per cent. I repeat: contacts made with those businesses have dropped by 75 per cent and, of course, that is something that hardly any business can stand. Therefore, it would appear that the uncertainty during the continuation of the inquiry may be causing injustice and hardship to some agencies that may be legitimate. How soon will some sort of statement be made about the outcome of the inquiry that may clarify these matters?

The Hon. C.J. SUMNER: The honourable member is quite correct in saying that an inquiry was instituted following complaints to me and the Department of Public and Consumer Affairs about marriage agencies. There is some disquiet in the community. The inquiry is nearly complete and I expect to obtain the results soon.

ENVELOPES

The Hon. ANNE LEVY: I seek leave to make a brief statement before asking the Minister of Agriculture, representing the Minister of Education, a question about envelopes.

Leave granted.

The Hon. ANNE LEVY: Today I received a letter signed by 21 people. It is addressed to members of the House of Assembly, so I presume that other members of Parliament have received similar letters and, in fact, 69 such letters may have been received today. On examining the envelope I note that it has stamped on it:

> If not claimed within 10 days return to G.P.O. Box 1152, Adelaide 5001. Education Department SA.

The address has been crossed out with what looks like a felt tip pen, but it is still visible. Quite clearly, it is an Education Department envelope.

I in no way quarrel with the people who have sent the letter as to their right to do so, but I wonder at the use of an Education Department envelope for sending this letter and perhaps the other 68 letters. As far as I am aware, the Education Department has nothing to do with the matter which is the subject of the letter. I presume that the letter has been sent in the private capacity of the individuals who have signed it. It disturbs me that the stationery that has been used to send this letter obviously is Government stationery. I presume that the stationery has been used without Education Department authorisation. Did the Minister or anyone in the Education Department authorise the use of Education Department envelopes for the private matter contained in the letter addressed to all members of Parliament? If not, will the Minister ensure that taxpayers' money is not thus used to subsidise what should be private activities on the part of the signatories to the letter?

The Hon. FRANK BLEVINS: I will refer the honourable member's question to my colleague in another place and bring down a reply.

KARINGAL PARK BOAT MARINA

The Hon. I. GILFILLAN: Has the Minister of Health, representing the Minister for Environment and Planning, a reply to my question of 9 August about the Karingal Park Boat Marina?

The Hon. J.R. CORNWALL: My colleague, the Minister for Environment and Planning, advises that the replies to the honourable member's four specific questions are as follows:

1. No.
2. See 1 above.
3. The Advisory Committee on Planning had no involvement in this application. However, assuming the honourable member means the S.A. Planning Commission, the Commission did at first indicate a refusal, but sought more detailed information on the application.
4. In the case of this particular application, the proposal was publicly advertised in *The Murray Valley Standard* on 23 February and 1 March 1984 and no objections were received.

Strong support was given to the proposal by the Department of Tourism whilst there was no opposition from other Government authorities such as the E & W S Department, the S.A. Health Commission and the Department of Marine and Harbors. The Murray Bridge council also supported the proposal.

Having considered the advice of all relevant departments and agencies, the Commission decided in favour of the development having regard to the following:

- the swamp's location within an area used extensively by holiday makers and adjoining a country living development;
- the vast number of mosquitoes emanating from the swamp which is an ideal breeding ground;
- the degraded condition of the swamp;
- the swamp's vulnerability to fire in summer;
- the need to extend the existing marina facility.

TANKS AND DAMS

The Hon. PETER DUNN: I seek leave to make a brief statement before asking the Minister of Agriculture, representing the Minister of Water Resources, a question about the retention of tanks and dams in remote areas.

Leave granted.

The Hon. PETER DUNN: During the 1920s and 1930s government dams were constructed in many of the drier areas of the State, especially on Eyre Peninsula. These dams had catchment areas of about 200 hectares and provided the only water supplies for most of the development in these areas. Later, farmers were able to sink dams themselves, and in some areas reticulated schemes were advanced to provide more permanent supplies. However, many areas still depend to a fair degree on these early dams. In the 1950s the Government quite wisely constructed one-million-gallon tanks adjacent to the dams. These tanks were filled from the adjacent dams and retained a quantity of water provided by E & WS Department water tankers. These tanks provided a wonderful backup reserve in dry times when the dams were empty.

Concern is now expressed at the suggestion that the reserves, dams and tanks will be disposed of by the E & WS Department. My questions are as follows:

1. Under what type of tenure will the leases be sold?
2. Will the purchasers have any obligation to keep the catchment area and the dam in usable condition?
3. Will the purchasers be obliged to supply water to their neighbours and to the public in general?
4. Will a set charge for such water be imposed by regulation?
5. How many reserves, tanks and dams will be affected by such a drastic move?
6. What money does the Government hope to obtain from such a move?
7. What is the fate of the E & W S Department workers who will no doubt become redundant if this scheme is implemented?

The Hon. FRANK BLEVINS: I will refer that question to my colleague in another place and bring back a reply.

HEYSEN TRAIL

The Hon. L.H. DAVIS: I seek leave to make a brief explanation before asking the Minister of Health, representing the Minister of Recreation and Sport, a question about the Heysen Trail.

Leave granted.

The Hon. L.H. DAVIS: The Heysen Trail, running from Cape Jervis through to the Northern Flinders Ranges, commemorates the name of a great South Australian and provides people from all walks of life with a unique way to exercise, while enjoying the varied fauna and flora along the trail. It is reasonable to believe that great care has been and will be taken to minimise any visual or physical disturbance to the environment along the Heysen Trail. Therefore, it is disturbing to hear that iron droppers or steel pegs have been used to mark the trail in sections of the Flinders Ranges. I understand that metal pegs have been used in such places as Black's Gap and Aroona Hut. In some sections of the trail the pegs are 20 to 30 metres apart; in other areas, only 5 to 6 metres apart. I understand that the pegs are painted red and in some cases are set only 10 to 15 centimetres off the road that runs alongside the Heysen Trail.

Local residents and visitors alike are concerned about the use and location of these metal pegs. First, they are inappropriate for their environment, and radiata pine markers, as used in other parks and reserves in South Australia, would seem to be much more appropriate. Secondly, they are physically dangerous to cars and horses travelling on

roads alongside the trail. Will the Minister take steps to rectify this remarkably insensitive approach to the marking of the Heysen Trail in the Flinders Ranges?

The Hon. J.R. CORNWALL: I will refer that question to my colleague and bring back a reply.

SUBMARINES

The Hon. DIANA LAIDLAW: I seek leave to make a brief explanation before asking the Attorney-General, representing the Premier, a question about submarines.

Leave granted.

The Hon. DIANA LAIDLAW: In the Governor's Speech at the opening of this session, it was noted that in relation to the Government's economic development strategy particular efforts are being concentrated on ensuring that South Australia is selected as the site for the manufacture of submarines to replace the existing submarine fleet of the Royal Australian Navy.

The Hon. R.C. DeGaris: They are nuclear, you know.

The Hon. DIANA LAIDLAW: It has not been decided whether they will be nuclear submarines or not; that is not the question that I am posing. For well over a year now the Government has been talking about this project, notwithstanding the fact that the choice of the site by the Federal Government between South Australia, New South Wales and Victoria will not be made for some years. It has been suggested to me repeatedly that the Government's enthusiastic endorsement of this project has the potential to outdo the stop-start saga that we witnessed during the Dunstan years in respect of the Redcliff petro-chemical plant. What is the exact nature of the efforts referred to in the Governor's Speech that the Government proposes to concentrate on, with a view to ensuring that South Australia is selected as the site for the manufacture of submarines, and what funds have been allocated to date to promote South Australia's claim?

The Hon. C.J. SUMNER: An enormous amount has been done by the Government through the Department of State Development. Should the honourable member wish to have a briefing from the Department of State Development on this topic I am sure that that information can be provided to her in more detail. A lot of work has been done, with the Federal Government, with the armed services (the Navy) and with the international companies that might be involved in the manufacture, to try to put to them the advantages of having the construction of the submarines in South Australia. This has included—

The Hon. C.M. Hill: The Premier even went down in one.

The Hon. C.J. SUMNER: The Premier actually went into a submarine; that is right. The Director of State Development just a week or so ago was overseas again on this project. A film was prepared, outlining the advantages of South Australia for this project. As I said, the thrust of it has come through the Department of State Development, with the Premier as the Minister responsible.

Action has been taken to push South Australia's claim with those organisations that I have mentioned. Should the honourable member desire any additional information, I am sure that it can be made available to her through the Director of State Development or one of his officers. I can assure the honourable member—and I think that everyone who has been associated with the Government action in this respect agrees—that everything that could possibly be done has been done. Whether we get it or not is another matter.

The Hon. Diana Laidlaw: And will have to be done for several more years.

The Hon. C.J. SUMNER: I do not think so. I think that the honourable member is mistaken there; she needs to get her facts straight again. As I understand it, the decision will need to be taken much sooner than several years in the future. As I said before, if South Australia does not get the project it will not be the result of any failure or lack of interest on the part of the State Government, which has pursued the project with enthusiasm. The Department of State Development has done all that possibly can be done to try to secure that project for South Australia.

The Hon. Diana Laidlaw: What funds have been allocated to date?

The Hon. C.J. SUMNER: I said that if the honourable member wants further information I can—

The Hon. Diana Laidlaw: I thought that you might put in *Hansard* what your commitment is.

The Hon. C.J. SUMNER: If the honourable member would like it put in *Hansard,* I do not know whether there would be any additional funds beyond some funds made available for the production of the film, for instance, but most of it would have been done within the resources of the Department of State Development. That is why there is a department there in place already to handle these sorts of things, but if the honourable member requires more information I will obtain it for her.

FULLARTON PRIVATE HOSPITAL

The Hon. J.C. BURDETT: During his recent visit to the United States, did the Minister of Health have any discussion with representatives of the Hospital Corporation of America about the recategorisation of the Fullarton Private Hospital for the purposes of payment of Medicare benefits?

The Hon. J.R. CORNWALL: No.

QUESTIONS ON NOTICE

DETAILS OF ORGANISATIONS

The Hon. R.I. LUCAS (on notice) asked the Minister of Health in relation to the undermentioned bodies:

(a) Aboriginal Co-ordinating Committee;
(b) Community Welfare Advisory Committee on Early Childhood Care;
(c) Community Welfare Grants Advisory Committee;
(d) Family Support Services Management Committee;
(e) Residential Child Care Advisory Committee;
(f) Community Welfare Grants Review Committee;
(g) Residential Child Care and Support Advisory Committee;
(h) Youth Accommodation Advisory committee,

to provide the following information:

1. Names of members of the committees.
2. Level of fee, salary or allowance, payable to the members.
3. Date of expiry of each member's term of office.
4. Terms of reference of each committee.

The Hon. J.R. CORNWALL: There are pages and pages of answers to these questions which have cost the taxpayers of this State thousands of dollars. It is not all statistical in nature.

Members interjecting:

The Hon. J.R. CORNWALL: Well, it's an awful waste of their time.

The Hon. R.I. Lucas: Thousands of dollars—garbage! That is outrageous!

The PRESIDENT: Order!

The Hon. J.R. CORNWALL: I never completed a masters degree at public expense. This is a joke in poor taste. Mr President, I seek your guidance. These answers are not all statistical in nature and are mostly almost extremely trivial and exceedingly boring and I seek leave to have them inserted in *Hansard* without my reading them, at great and boring length.

The PRESIDENT: I will ask leave of the Council for the Minister to do that, as it has been done on a number of previous occasions.

Leave granted.

ABORIGINAL CO-ORDINATING COMMITTEE

Member	Expiry Date	Fees per Session $
O. Bevan	Appointment by virtue of office	—
J. Browne	"	—
B. Butler	"	—
D. Colson	"	—
A. Hall	"	—
S. Kunnanara	"	45
M. Maughan	"	—
E. McAdam	"	—
J. McLaren	"	—
B. Miller	"	—
J. Moriarty	"	—
I. Proctor	"	—
D. Rathman	"	—
J. Stanley	"	—
C. Temme	"	—
P. Thompson	"	—
G. Wilson	"	—
P. Buckskin	"	—

Terms of reference:

(1) Share information about services for Aboriginals provided by State Departments.

(2) Review, monitor and co-ordinate those services.

(3) Review funding submissions to the Commonwealth and the effective expenditure of those grants.

(4) Co-ordinate policy and procedures between the Commonwealth and State in those areas.

COMMUNITY WELFARE ADVISORY COMMITTEE ON EARLY CHILDHOOD CARE

Terms of reference:

To advise the Minister of Community Welfare on:

(a) All aspects of early childhood care (excluding pre-school services).

(b) The allocation of child care funds from both Commonwealth and State funding sources.

(c) The distribution and development of child care services throughout the State. This development should take account of demographic and social indicator information relating to needs.

(d) Aspects of licensing and monitoring of early child care facilities and services as requested.

(e) The qualifications required for early child care personnel and the education and training of such personnel.

(f) Review and evaluation procedure and research into child care.

(g) Policy issues relating to child care and such other matters as the Minister may request.

COMMUNITY WELFARE ADVISORY COMMITTEE ON EARLY CHILDHOOD CARE

Member	Expiry Date	Fees per Session $
R. Wighton	25.3.86	—
P. Bassett	"	—
B. Butler	"	45
J. Chapman	"	"
R. Gay	"	"
H. Leo	"	"
J. Luxton	"	"
P. Mansfield	"	—
P. Mitchell	"	—
R. Bryant	"	45
J. Weaver	"	—

COMMUNITY WELFARE GRANTS ADVISORY COMMITTEE

Member	Expiry Date	Fees per Session $
Seaman (Sir) K.	30.6.85	55
Anagnostou, P.	30.6.85	45
Killington, G.	30.6.85	45
MacIver, J.	30.6.85	45
Moylan, B.	30.6.85	45
Keough, K.	30.6.86	45
McSkimming, H.	30.6.86	45
Gibberd, W.	30.6.86	45

COMMUNITY WELFARE GRANTS ADVISORY COMMITTEE

Terms of Reference:

The Community Welfare Grants Advisory Committee advises the Minister on the allocation of grants from the Community Welfare Grants Fund to non-statutory organisations providing welfare services.

FAMILY SUPPORT SERVICES MANAGEMENT COMMITTEE

Terms of Reference:

- Make recommendations to the Minister of Community Welfare and Minister for Social Security on funding for projects.
- Monitor family support projects.
- Advise on the implementation of projects.
- Review each project at least annually, and provide annual reports to the Minister of Community Welfare and the Minister for Social Security on each project.

Member	Expiry Date	Fees per Session
R. Layton	31.12.84	—
M. Hammerton	31.12.84	—
J. Ferris	31.12.84	—
J. Gapper	31.12.84	—
R. Kennedy	31.12.84	—
K. Moyle	31.12.84	—
J. Roberts	31.12.84	—

RESIDENTIAL CHILD CARE AND SUPPORT ADVISORY COMMITTEE

Terms of Reference:

(1) To monitor the need for services, both residential and non-residential, for children under the age of 16.

(2) To advise the Minister on the development of appropriate services giving particular emphasis to the development of services designed for the purposes of reducing the occurrence or mitigating the adverse effects of the placement of children in children's homes.

(3) To advise the Minister on policy matters and standards of care in all services, both residential and non-residential, which care for children who live apart from their parents.

(4) To advise the Minister on the co-ordination and rationalisation of residential care services, foster care programmes and other support services.

(5) To advise the Minister on grant allocations to non-statutory children's homes, foster care agencies and other support services, from the Community Welfare Residential Care and Support Grants Fund.

(6) To consult with the governing authorities of children's homes, foster care agencies and other support services on their role in the total programmes of residential care, foster care and other support services for children.

(7) To promote research and evaluation of residential care, foster care and other support services.

(8) To facilitate the development of training programmes for staff involved in residential care, foster care and other support services.

Member	Expiry Date	Fees per Session $
R. Layton	4.9.85	—
D. Althorp	4.9.85	—
J. Brown	4.9.85	—
M. Greenlekee	4.9.85	45
J. Healy	4.9.85	45
J. O'Neill	4.9.85	45
H. Smith	4.9.85	45

Residential Child Care Advisory Committee is now defunct and has been replaced by the Residential Child Care and Support Advisory Committee and the Youth Accommodation Advisory Committee.

COMMUNITY WELFARE GRANTS REVIEW COMMITTEE

Member	Appointment by Virtue of Office	Fees per Session $
G. Killington	"	55
G. Bruff	"	45
E. Martin	"	45

Terms of reference—see Appendix 'B'

Appendix B

COMMUNITY WELFARE GRANTS REVIEW—TERMS OF REFERENCE

1. Review the current allocation of Community Welfare grants in respect to their distribution and the extent to which they respond to current community need.

1.1 Examine current methods of assessing community needs employed by applicants and the Community Welfare Grants Committee.

2. Examine the role that Community Welfare Grants have within non-government agencies, giving particular consideration to the following:

2.1 The impact of annual grants and the need for longer term funding. Ways of allocating, administering and maintaining longer term grants.

2.2 The feasibility and relative merits of allocating grants on a programme basis as compared with an agency basis, where this has not already been achieved.

2.3 The degree of accountability for programmes and finances that should be required of grant recipients.

2.4 The conditions under which staff are employed through the use of the Community Welfare grants funds.

2.5 The relative merits of partial funding for numerous projects as compared with full funding for fewer projects.

2.6 Possible changes in the funding cycle and relative merits of financial year funding as compared with calendar year funding.

3. The role of the Community Welfare Grants Committee and departmental staff in respect to:

3.1 The suitability of assistance given to applicants.

3.2 The effect of advertising and encouraging applications given the prospect that much of the grant money is committed to ongoing programmes.

3.3 Ways that the Community Welfare Grants Committee might respond to developing needs and initiatives throughout the year.

3.4 The role of Department for Community Welfare staff in supporting grant recipients.

3.5 The advisability of dividing the allocations into various categories within which priorities can be set.

4. The relationship between the Community Welfare grants and other Government funding schemes and the feasibility of improving co-ordination between them.

5. The terms of this review should be considered in relation to the limited nature of financial resources possible in the next financial year.

YOUTH ACCOMMODATION ADVISORY COMMITTEE

Terms of Reference:

(1) To monitor the need for youth accommodation services, both of a residential and non-residential type for youth over the age of 16 and advise the Minister of appropriate services in response to those needs.

(2) To advise the Minister on policy matters and operating standards of all youth accommodation programmes.

(3) To advise the Minister on the co-ordination and rationalisation of youth accommodation programmes.

(4) To advise the Minister on grant allocations to the governing authorities of the youth accommodation programmes, from the Youth Services Scheme and other appropriate funding sources.

(5) To consult with the governing authorities of youth accommodation programmes on their role in the total programme of youth accommodation services.

(6) To promote research and evaluation of youth accommodation matters.

(7) To facilitate the development of training programmes for staff involved in the provision of youth accommodation programmes.

(8) To provide advice on the licensing of youth accommodation programmes providing care for youths under the age of 18 years.

Member	Expiry Date	Fees per Session $
L. Mann	4.9.85	—
G. Black	"	—
D. Cunnew	"	—
D. Manning	"	45
L. R. Pichler	"	45
P. Sandeman	"	—
N. Lean	"	—

The Hon. R.I. LUCAS (on notice) asked the Attorney-General in relation to the undermentioned bodies:

(a) Adelaide Festival Centre Trust;
(b) Art Gallery Board;
(c) Licensing Board of South Australia;
(d) South Australian Film Corporation;
(e) State Theatre Company;
(f) State Opera of South Australia;
(g) History Trust;
(h) Museum Board,

to provide the following information:

1. Names of members of the Boards of these bodies;
2. Level of fee, salary or allowance payable to the members;
3. Date of expiry of each member's term of office.

The Hon. C.J. SUMNER: The answers I have are semi-statistical in nature, and I seek leave to have them incorporated in *Hansard* without my reading them.

The PRESIDENT: I can only take the Attorney's word for whether the replies are semi-statistical.

The Hon. C.J. SUMNER: They are.

Leave granted.

	Fee $	Expiry Date
(a) ADELAIDE FESTIVAL CENTRE TRUST		
A.B. Noblet, Chairman (public servant)	nil	13.1.85
P. Brokensha, member	1 450 p.a.	13.1.86
M.M. Fitzgerald, member	"	13.1.86
J.B. Jarvis, member	"	26.7.85
J. Noble, member	"	13.1.85
D. Quick, member	"	28.3.87
(b) ART GALLERY BOARD		
W.R. Prest (Dr), Chairman	No remuneration	1.1.86
P.J. Fargher, Deputy Chairman	"	1.1.85
C.V. Michell, member	"	1.1.85
T.N. Phillips, member	"	1.9.84
D. Ramsay, member	"	1.1.86
J. Hylton, member (public servant)	"	31.12.87
R.A. Layton (Her Hon.), member	"	31.12.87
H. Bonnin, member	"	31.12.87
P. Glow (Professor), member	"	19.7.87
(c) LICENSING BOARD OF SOUTH AUSTRALIA		
No such body exists		
(d) SOUTH AUSTRALIAN FILM CORPORATION		
A. Deveson, Chairperson	7 300 p.a.	15.5.87
Sir James Hardy, member	2 550 p.a.	15.5.87
J. Morris, member	"	15.5.85
R. Jose, member	"	15.5.85
J. Worth (staff rep), member	nil	15.5.85
Q. Young, member	2 550 p.a.	15.5.87
(e) STATE THEATRE COMPANY		
M.F. Gray, Chairman	Members do not accept fees	7.7.86
J. Blewett, member	"	26.10.86
M.A. Crotti, member	"	25.2.85
R. Wighton, member	"	25.2.85
K. Wilby, member	"	25.2.85
M.J. Harrison, member	"	25.2.85
(f) STATE OPERA OF SOUTH AUSTRALIA		
Justice G.R. Prior, Chairman	Members do not accept fees	15.3.85
I.D. Brice, member	"	15.3.86
J. Bellgrove, member	"	30.6.86
R. Cocking, member	"	15.3.85
M. Handley, member	"	30.6.85
T.A. Hodgson, member	"	15.3.86
P. Mendels	"	30.6.86
(g) HISTORY TRUST OF SOUTH AUSTRALIA		
N. Etherington (Dr), Chairman	100 p/mtg	26.3.87
D. Jaensch (Dr), trustee	85 p/mtg	26.3.85
P. Benson, trustee	"	26.3.86
P. Crush, trustee	"	26.3.86
R. Gibbs, trustee	"	26.3.85
M.G. Grabowska-Baldino, trustee	"	26.3.87
J. Radcliffe (Dr), trustee (public servant)	nil	26.3.87
B. Rowney, trustee (public servant)	nil	26.3.87
(h) MUSEUM BOARD		
M. Tyler, Chairman	No remuneration	16.3.86
K.S. Hannaford, member	"	10.5.88
J. Moriarty, member	"	10.5.88
C.R. Twidale (Dr), member	"	10.5.88
A. Edwards, member (public servant)	"	16.3.86
M. McMurray, member	"	2.8.88

SAGRIC AND SALGER

The Hon. R.I. LUCAS (on notice) asked the Minister of Agriculture:

1. *(a)* Does the company known as Sagric International still exist?
(b) What activities is it involved in?
(c) Who owns and controls the company?
2. *(a)* Does the company known as Salger still exist?
(b) What activities is it involved in?
(c) who owns and controls the company?

The Hon. FRANK BLEVINS: The answers are very brief and will be no more than a footnote in the thesis, so I shall read them:

1. *(a) Yes.*

(b) Sagric International provides feasibility and design study, project management and technical expertise in rural development to overseas countries with the aim of developing markets for South Australian goods and services.

(c) The company is owned solely by the State of South Australia through nominal $1 sharehcldings held *ex officio*

in the names of the Treasurer, the Minister of Agriculture and the Deputy Premier of South Australia.

The company is managed by a board of directors drawn from both the private and public sectors of South Australia and appointed by the shareholders.

2. *(a)* The name of the company originally known as Salger Pty Ltd was changed to Sagric International Pty Ltd on 21 October 1981.

(b) and *(c)* Refer *(b)* and *(c)* above.

CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (No. 2)

Adjourned debate on second reading.

(Continued from 16 August. Page 337.)

The Hon. K.T. GRIFFIN: The Opposition supports this Bill, which is designed to establish a procedure whereby an accused person must give appropriate notice of an alibi upon which he or she wishes to depend at the trial of any indictable offence. That notice is to be given, if not at the committal stage, then within seven days of the conclusion of the committal proceedings at which the accused has been committed for trial. The Bill also seeks to establish mechanisms for enabling that to occur; namely, that the notice of the alibi must be in writing, it must contain a summary setting out with reasonable particularity the facts sought to be established by the evidence, the name and address of the witness by whom the evidence is to be given, and any other particulars that might be required by the Rules of Court. That notice is to be given to the Crown Prosecutor.

There is a provision that, if the requirement of the section is not complied with, that does not necessarily mean that any evidence of an alibi upon which an accused seeks to rely at the trial is inadmissible but that the non-compliance may be the subject of comment to the jury. There is a further provision that, unless the court grants leave, the Crown is not permitted to adduce evidence in rebuttal of an alibi after the close of the case for the prosecution. However, leave is to be granted where the defendant gives or adduces evidence of an alibi in respect of which no notice is given, or when notice is not given with sufficient particularity.

This Bill arises, I understand, from recommendations that were made in 1967 by the United Kingdom Criminal Law Revision Committee in its ninth report on evidence. In the United Kingdom the Criminal Law Review, as I understand it, had made some recommendations to that committee for review of the law relating to an alibi, largely because the courts were finding that there was a business of marketing alibis amongst members of the underworld. In an attempt to overcome that practice the Criminal Law Revision Committee decided that there should, in fact, be particular provisions whereby the Crown was given formal notice of an alibi. In that report the committee said:

> In our opinion there is a strong case for amending the law so as to deprive accused persons of the privilege of keeping back a defence of alibi until the last moment. A rule which enables the accused to deprive the prosecution of the opportunity of investigating the truth about a defence clearly calls for some justification if it is to be kept. The rule has been defended on the ground that there is no substantial need for any change, that in any event the prosecution and the court can comment on the failure of the accused to mention an alibi, and that there is nothing so special about alibi defences as to justify making an exception in respect of them to the general rule that the defence are not obliged to disclose their case to the prosecution.
>
> It is also said that the accused, especially if he is in custody, may have difficulty in finding a witness to a good alibi in time to comply with the requirement to give notice and that in any event there are practical difficulties about the police interviewing alibi witnesses in order to investigate their story. But for reasons which will appear below we are satisfied that, whatever should be the law as to disclosure of the defence in general, alibi defences at least are a special case, that provision ought to be made for giving notice of those defences and that the practical difficulties, if they exist, can be overcome.
>
> We believe that it will contribute substantially to the breaking down of false alibis if notice of an alibi has to be given in advance. The present law gives two particular advantages to the defence. First . . . the police may be unable to investigate the alibi before evidence of it is given. It will therefore be of help to them if particulars have to be given before the trial. Secondly, if an alibi witness is kept out of sight till the moment when he is called, the prosecution are deprived of the possibility of finding out something about him which can be put to him in cross-examination and may lessen the value of his evidence. For this reason elaborate precautions are sometimes taken to prevent the police from finding out who the witness is to be until his name is called and he comes into the witness box.

That, in itself, provides adequate justification for amending the South Australian Criminal Law Consolidation Act to accommodate that procedure. I have had some discussions with barristers who, from time to time, have represented accused persons where alibis are involved and they inform me that it is their general practice to inform the prosecution of the particulars of an alibi, even though there is no statutory requirement for them to do so, because they believe that it facilitates the conduct of a trial, both for the prosecution and the defence, and it also demonstrates the genuineness of the belief of the accused in respect of the alibi which, of course, will go to the question of innocence or guilt during the course of the trial. For those reasons, I certainly support the Bill. I understand that there has not been any particular difficulty in South Australia, at least in recent times, but that this Bill will provide a formal procedure to guard against a time when it may become a difficulty in this State.

I draw attention to one matter referred to by the Criminal Law Revision Committee in its report, that is, in relation to interviewing witnesses identified as being able to give evidence of an alibi on behalf of an accused. The committee says:

> Since the object of the requirement to give the names of alibi witnesses is to enable the prosecution to investigate the alibi, we have no doubt that it follows that the police should be able to interview the witnesses, as is done in Scotland. This may give rise to difficulty if allegations are made at the trial that the police acted improperly when interviewing a witness. The trial would then be complicated by the introduction of further issues of fact for the jury. In order to lessen these difficulties it would in our opinion be desirable that chief officers of police should give instructions that before interviewing a proposed alibi witness the police should, whenever possible, give the solicitor for the defence reasonable notice of their intention to do so and a reasonable opportunity to be present at the interview. We do not suggest that it should be the practice to arrange for similar facilities for the accused himself in the uncommon case where he is not legally represented, especially as he may be a long way from where the witness is to be interviewed and may be in custody; but in these cases we suggest that the police should try to arrange for the interview to be in the presence of some independent person.

I support that proposal. No mention has been made of it by the Attorney-General in his second reading explanation, and I wonder whether he would be prepared to make some comment on that particular recommendation as one of the important ingredients in the adoption of the proposal in the Bill designed to reduce the opportunity for other issues to be raised by an accused person in the conduct of a defence where an alibi is relied on.

I make particular reference to that because in the January 1975 issue of the *Criminal Law Review* there is comment that the safeguard to which I have just referred has not, in fact, been followed in practice, notwithstanding that assurances were given in the United Kingdom Parliament that the practice would be adopted. The article states:

What in fact is happening in some cases is that on receiving the names and addresses of the witnesses the police go straight to them to obtain statements. This leads to several difficulties. Some defence solicitors feel that they are unable to approach the alibi witnesses once they have been interviewed by the police. If the defence solicitor does overcome this scruple he may find that the witness refuses to make any further statement on the ground that he had already made one to the police. Where on the other hand alibi witnesses refuse to give the police a statement, there have been cases where a judge has invoked this refusal against the accused by suggesting to the jury that if the alibi witness was telling the truth he would have made a statement to the police.

These difficulties can be avoided by conscientious action on the part of defence solicitors. When they give the names of alibi witnesses some solicitors invite the police to come and interview the witnesses at the solicitor's office. This invitation is normally accepted. The trouble arises when solicitors do not take this initiative.

I think that the practice referred to by the Criminal Law Revision Committee and in the January 1975 issue of the *Criminal Law Review* is appropriate. I would hope that in order to minimise difficulties the South Australian Police will follow that practice, generally speaking. I would appreciate it—

The Hon. C.J. Sumner: Do you want an amendment?

The Hon. K.T. GRIFFIN: I would appreciate it if the Attorney would respond to it. I do not think that it is necessary to amend it, but—

The Hon. C.J. Sumner: Do you want the Bill to go through or not?

The Hon. K.T. GRIFFIN: Yes, I am happy if the Attorney-General puts the Bill through, as long as there is some assurance before the Bill passes the Parliament. It is not a matter of controversy but, I think, of proper practice on the part of the police which will avoid difficulties. I ask the Attorney-General or the Minister handling the Bill in the other House to respond before it passes the Parliament. I will be happy with that.

The Hon. C.J. Sumner: What happens if we can't give assurances?

The Hon. K.T. GRIFFIN: The Attorney-General asks what happens if he cannot give that undertaking. Again, I am not proposing to hold the Bill up if the undertaking is not given. I think that it shows reasonable common sense and, for that reason, I would anticipate that there would be some assurance about this in most, if not all, cases. I realise that there may well be occasions where it is not possible, but, if there is an expression of intention to comply with the spirit of that sort of reference made in 1966 by the Criminal Law Revision Committee, I am certainly happy with that.

I think it will assist in the proper administration of justice. So, I support the second reading of the Bill, as I believe it is a worthwhile amendment to the Criminal Law Consolidation Act and to procedures in respect of criminal trials.

The Hon. C.J. SUMNER (Attorney-General): I thank the honourable member for his support of the Bill. My interjections were to elicit from the honourable member whether he wished me to report progress during the Committee stages to look at the matters he raised or whether he was prepared for the Bill to pass this Chamber and go to the House of Assembly. If he does not require immediately the assurances he sought, I would prefer to have the Bill passed so that it could at least be before the House of Assembly. I will then obtain comment on the matters raised by the honourable member, but he will have to understand that, by then, if the answers are not to his satisfaction, the Bill will be in the House of Assembly and will, in all probability, be passed. I do not want to be difficult about it, and I will certainly obtain the information for the honourable member. If possible, I would prefer the Bill to be passed today so that it can be placed before the House of Assembly as soon as possible. During the show recess I will obtain the information that the honourable member has sought.

Bill read a second time and taken through its remaining stages.

FAMILY RELATIONSHIPS ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 8 August. Page 94.)

The Hon. K.T. GRIFFIN: The Bill is important because it deals with the status of children born as a result of artificial insemination by donor or *in vitro* fertilisation procedures. But, regrettably, it is but a small part of the broader spectrum of issues, both legal and ethical, in respect of artificial insemination by donor, which has been in use for some 15 years, and the relatively new but, nevertheless, rapidly expanding use of *in vitro* fertilisation procedures.

While it is important to deal with the status of children born as a result of the use of these procedures, it is equally important to address the broader issues. In this Bill there are some issues where acceptance of a position is presumed without question, such as the availability of the procedures to unmarried couples, and the use of wholly donated genetic material. I will address these issues and some of the broader issues later.

In relation to married couples, this Bill provides that:

(a) a child born as a result of implantation of an ovum into the uterus of a woman, whether or not that ovum is that of the woman into whom it is implanted, is the child of that woman; and

(b) a child born as a result of artificial insemination or *in vitro* fertilisation, whether or not the sperm is that of the lawful husband, but where the husband has expressly consented to the procedure, is the child of that husband.

So, where the husband of the woman has consented, and where either one or other contributes genetic material, or where both the sperm and the ovum is donated by persons other than the married couple, a child is the lawful child of that couple and the donors of any genetic material have no rights or obligation in respect of that child.

In passing, I should refer to a provision in new section 10d (2) which appears strange, namely, that:

In every case in which it is necesary to determine whether a husband consented to his wife undergoing the fertilisation procedure, his consent shall be presumed, but the presumption is rebuttable.

I am not sure why the Government has decided to reverse the onus of proof—I would have thought that it was simpler, and certainly less open to abuse, to require the consent to be expressly given. That provision also has relevance to unmarried couples, as I will explain, but in that context it is even more difficult to see the sense in it.

The Bill also provides for the determination of the status of a child born to an unmarried couple where a woman is 'living with a man as his wife on a genuine domestic basis'. In those circumstances, and where the man so living with the woman consents to the procedure, the man is the father of the child.

The Bill addresses this matter from a drafting point of view by redefining 'married woman' and 'wife' and 'husband' as follows:

'married woman' or 'wife' includes a woman who is living with a man as his wife on a genuine domestic basis; and 'husband' has a correlative meaning.

This terminology blurs significantly the long established and recognised concept of 'lawful husband and wife', absorbing within its terms the *de facto* relationship, giving the appear-

ance of the unmarried status having the same value as marriage.

Perhaps that may be convenient for the draftsman on a technical basis, but I do not believe that that form of words ought to be supported if, by a majority of the Council, *de facto* status is to remain in the Bill. To yield to that technical drafting device to describe an unmarried couple living in what the Bill describes as 'a genuine domestic relationship' is to do a grave disservice to all those hundreds of thousands of South Australians who are prepared to accept both the benefits and the constraints of legal marriage. The Bill also provides in a new section 10a (2) that:

> A reference in this part to the 'husband' of a woman shall, where the woman has a lawful spouse but is living with some other man as his wife on a genuine domestic basis, be construed as a reference to the man with whom she is living and not the lawful spouse.

This further confuses the two relationships—the lawful marriage on the one hand; *de facto* relationships on the other. Is this provision legal recognition of polygamy?

This matter was addressed only last Saturday in the *Advertiser* by the Anglican Archbishop of Adelaide, Dr Keith Rayner, who said:

> Recent decisions have been quietly developing an entirely new principle, namely, that married relationships and *de facto* relationships are being treated as almost identical. This is what the Budget has done in allowing *de facto* spouses the same dependent rebate as married spouses. But this decision does not stand alone. Take, for example, the recent fuss in the Federal sphere about travel allowances for *de facto* partners of M.Ps. This has had its parallel in the case of a member of the State Parliament. For many of us it came as a revelation that in the State sphere there are precise regulations about the conditions upon which a *de facto* spouse might gain travel benefits. Apparently one regulation is that the couple have lived together for five years. In that case they have the same benefits as M.Ps. who are legally married. I am not talking here about the morality of the relationship. That is one matter. My present concern is the mess into which our law is getting.
>
> A *de facto* relationship is in essence a private relationship. The couple concerned are presumably saying, 'We do not want to enter into the public and recognised status of marriage.' Because, after all, in the eyes of the law it is the essence of marriage that is openly recognised by the community.
>
> That is why the law carefully regulates the conditions of marriage. Marriages are formally registered. It is possible to determine at any moment who is married to whom. There are clear objective tests of marriage. It begins with a public ceremony, and if it is to end, it must be by fair judgment of the State.
>
> I am not talking here of marriage in its specifically Christian perspective. Christians see marriage as a spiritual bond. But the Christian understanding is grounded on the general human understanding of marriage as a natural, clearly defined relationship. A great deal in our legal system and in our social relationships is built around this status accorded to marriage. The law has always recognised it as a quite unique relationship, different from any private arrangements which people might enter into.
>
> Once we get into the business of treating *de facto* relationships as identical in law with marriages, we have a nonsensical situation. A relationship which is essentially private which deliberately eschews the public consequences which marriage implies now purports to take on the character of the very relationship which it has deliberately avoided. Or at least it does so when financial advantage is involved! You cannot have it both ways. Marriage and non-marriage are not the same. If we say they are, then language no longer has any meaning.

In this context, then, the Bill presumes, without a consideration of the important social questions involved, that:

(a) artificial insemination by donor and *in vitro* fertilisation procedures are, or will be, available to unmarried couples living in a 'genuine domestic' relationship, and

(b) where there is a lawful husband, and husband and wife live separate and apart but they are not divorced, and one of them has a 'genuine domestic' relationship with some other person, the artificial insemination by donor or *in vitro* fertilisation procedures may be available to the latter couple regardless of the married status of one of them.

And, of course, the lack of a definition of the concept of 'genuine domestic relationship' does leave the way open for abuse. Under the Family Relationships Act, a putative spouse is defined as being a person who on a specific date is declared by a Government to be the putative spouse of another after having cohabited with that other person for a continuous period of five years immediately preceding the date of the order or for periods aggregating not less than five years over a period of six years immediately preceding the date of the order. The other alternative circumstance is that there have been sexual relations with the other person resulting in the birth of a child.

A genuine domestic basis may not be cohabitation and it need not necessarily be for a period of five years or any other period. And it would be possible for a homosexual male to live with a lesbian woman in what may be regarded as a 'genuine domestic relationship' without necessarily achieving cohabitation—all designed for the purpose of enabling the lesbian woman to be admitted to the *in vitro* fertilisation programme. The definition is fraught with difficulty and ought to be the subject of a more careful analysis if the majority wish to proceed with this concept.

The Hon. C.J. Sumner: It's not the result of this Bill.

The Hon. K.T. GRIFFIN: It is all part of the broader range of issues that have to be addressed in the context of considering this Bill, which is but one part of that broader context.

The Hon. C.J. Sumner: It may be more the Commonwealth Sex Discrimination Act or the State Sex Discrimination Act.

The Hon. K.T. GRIFFIN: I will deal with that in a moment.

The Hon. C.J. Sumner: What is in this Bill doesn't necessarily flow on to say that *de facto* couples or single people will be admitted to the programme.

The Hon. K.T. GRIFFIN: What it does is to presume that they will be. It presumes that.

The Hon. C.J. Sumner: That may already be the case. There have probably been some cases of AID that have occurred with single people in private surgeries over the past few years. The Bill addresses what has happened in the past and the status of those children but it does not say anything about the practice in hospitals. That is more a matter of sex discrimination.

The Hon. K.T. GRIFFIN: I will deal with the sex discrimination aspect in a moment. What I was saying was that the definition is fraught with difficulty and, regardless of the points that the Attorney has interposed, I do not think that anyone can deny that the definition is fraught with that sort of difficulty. It ought to be the subject of a more careful analysis if, as I indicated, the majority of this Council might wish to proceed with this concept. I take the view that this is not a position that ought to be included in the Bill now.

While it may be technically correct to suggest that the Sex Discrimination Act may not allow distinction between married and unmarried couples in the establishing of priorities for couples in the availability of the *in vitro* fertilisation programme, there can be no doubt that this programme would not have been even within the mind of the legislators when the Sex Discrimination Act was passed in 1975. Because of the questions that undoubtedly arise in respect of the rights of the child and its nurture within the family relationship, and because no unmarried couples have as yet participated in the IVF programme to the point where a child has been born, the Parliament ought not to presume without question the availability of the procedures to such couples without distinction but should consider the issues

directly, that is, whether or not the IVF procedures should be available to unmarried couples at all or, if so, whether they should be available in priority to married couples.

And this applies also to those circumstances where the woman is already lawfully married, but separated, and the prospective 'father' of the child to be born as a result of IVF procedures is living with the woman for some period of time and under such conditions as may establish 'genuine domestic basis', whatever that may mean. Obviously, an amendment to ensure no mandatory requirement of availability to unmarried couples can be considered in the Anti Discrimination Bill introduced last week. An amendment, possibly to the Sex Discrimination Act, might be considered appropriate in the context of this Bill to ensure that it is not used as the basis for compelling equal consideration, at least within the programmes of unmarried couples with married couples. If the procedures are to be available to unmarried couples, then of course the status of their children must be resolved at law. But that is a matter that I believe ought to be among those questions to be considered by a Select Committee, of which I have given notice today. The priority—

The Hon. C.J. Sumner: Surely enough work has been done on this. There is the Queensland report, the Waller report in Victoria, the Kelly/Connon report in South Australia—surely the issues have been canvassed, discussed and reported on sufficiently. It is a matter of people making up their minds about the issue.

The Hon. K.T. GRIFFIN: Let me make this point in respect of the South Australian committee. It was to consider issues over about three months. The terms of reference were somewhat limited.

The Hon. C.J. Sumner: All I am saying is that you should put the whole lot together. We have the Queensland report, the Waller report, which is still proceeding, plus the South Australian report. The issues have surely been canvassed at length throughout the nation.

The Hon. K.T. GRIFFIN: It is correct that a number of reports around Australia deal with the issues to which I am referring, but the fact is that the Government has introduced a Bill to deal with only one very limited aspect. There is no indication that the Government will bring in any legislation to deal with the other issues that are equally important and complex.

The Hon. C.J. Sumner interjecting:

The PRESIDENT: Order! The Attorney-General has explained the Bill several times while the Hon. Mr Griffin has been trying to address the Bill. I ask the Attorney now to allow the Hon. Mr Griffin to proceed. He can sum up at a later date.

The Hon. K.T. GRIFFIN: If in fact the Minister of Health is going to bring in legislation to deal with the other issues, which I believe should be considered by a Select Committee so that there can be a bipartisan approach to this whole issue, that should be done so that it can be dealt with in parallel with the Bill now before us. However, there is no indication that that is the Government's intention. I do not believe that the question of the status of children in the context of the Bill before us is something that can be dealt with in isolation from the other issues. It is all very well to say that a tremendous amount of work has been done on it around Australia; that is correct, but Governments around Australia are not united on the legislation which should be introduced. For example, I understand that the Western Australian Government has decided that it will enact legislation to deal only with the status of children born to married couples as a result of IVF procedures; that legislation will deal specifically with IVF procedures.

In Victoria there is a different approach from that in New South Wales. It is all very well to say that all this information is available: it does not help Parliament if it does not have concrete proposals before it. My proposal is that a variety of issues should be referred to a Select Committee comprising members from both sides of the Council with a view to assessing the reports, hearing further evidence if necessary, and bringing forward concrete legislative proposals to deal with a whole range of issues which are not addressed by the Government's Bill at the present time. The priority must be to resolve the status of children born to married couples as a result of artificial insemination by donor and *in vitro* fertilisation procedures, because the status of those children is presently unclear.

The Hon. C.J. Sumner: What about those children who have already been born of a single parent or a *de facto* couple?

The Hon. K.T. GRIFFIN: There are certainly not many of them in respect of artificial insemination by donor. Of course, that is an issue which must be addressed because, from the point of view of the children, their legal status must be resolved, as must their relationship with the donor of the sperm used to artificially inseminate the woman.

The Hon. C.J. Sumner: You will ignore them for the purposes of this exercise?

The Hon. K.T. GRIFFIN: At the present time I am proposing to leave them out of this Bill. If the Attorney-General is prepared to go some way toward accepting some of the proposals that I am laying down as the Liberal Party's position, so that we can deal with the status of the children to which he has just referred, I am certainly prepared to consider it. I suppose one could reach the point of saying that the woman who bears the child is the mother for all purposes. I have no problem with that. However, I think there is a difficulty in relation to unmarried couples participating in any AID programme to define the basis upon which a male partner in one instance should be deemed to be the father of a child born as a result of that procedure and a male partner in another circumstance should not be. That is the difficult question which does not have to be addressed in the context of marriage because there are clearly defined laws which establish what is or is not a marriage relationship.

However, there is difficulty where there is an unmarried relationship. That is the point that I will focus upon. In legal terms, I do not believe that the reference to genuine domestic relationship will make it any clearer in resolving the issue of the few children born to women in *de facto* relationships than is the case at the present time. That is the problem that I see. I am not trying to be difficult about that issue; I am seeking genuinely, first, to clarify those issues on which there is no dispute and, secondly, to refer to a Select Committee those issues where there is a dispute, in an attempt to come to grips with the difficult problems.

A report was published earlier this year by Dr A.F. Connon of the Health Commission and Miss Philippa Kelly of the Attorney-General's office. It was a good report in so far as it addressed the issues which were referred to it by the Minister of Health in October 1983 with a requirement to report by January 1984. As I have said, it was a very short period within which to come to grips with a particularly difficult problem. However, to the extent that it was prepared by a small working party and that others in the community were not given a reasonable opportunity to make contributions, the report has been criticised. I understand that when the report was publicly released by the Minister of Health, members of the community had until August to make submissions. Certainly, among the people with whom I have had discussions in respect of the Bill now before us, there are those who have expressed some surprise that it has been introduced in advance of the date by which they were required to make submissions on the recommendations made in the working party's report.

The Hon. C.J. Sumner: This is a separate exercise.

The Hon. K.T. GRIFFIN: It is not, because the report relates to the status of children.

The Hon. C.J. Sumner: It is a Standing Committee exercise.

The Hon. K.T. GRIFFIN: The persons to whom I have referred the Bill have expressed concern about its introduction in advance of them having an opportunity to respond to the recommendations of the working party's report. The working party addressed the question of the legal status of children in one or two of its recommendations; therefore, the two are not unrelated. I recognise that the Standing Committee of Attorneys-General has been considering *in vitro* fertilisation issues for the past two years. When I was on the Standing Committee we had resolved the question of artificial insemination by donor, but we were waiting on New South Wales to produce a draft Bill which could be a basis for uniform action throughout Australia. The problem was that on each occasion New South Wales kept saying, 'Nothing to report; it is still being drafted.'

The Hon. C.J. Sumner: Queensland did a bit of backsliding, too.

The Hon. K.T. GRIFFIN: It was always the responsibility of New South Wales to deal with the question of a draft Bill on AID. It was only in more recent times that IVF became a much more readily available procedure and, obviously, it has occupied more of the Standing Committee's time. I agree that something must be done about it.

The Hon. C.J. Sumner: I don't want to give the wrong impression; the whole Standing Committee is not agreed on the Bill.

The Hon. K.T. GRIFFIN: I understand that that would be the position. That indicates the difficulties in reaching a conclusion. I am proposing a mechanism by which I hope there is at least a reasonable prospect of some agreement being reached on a bipartisan basis to resolve these difficult questions. The Connon/Kelly Report makes a number of recommendations which will be controversial; for example, the freezing of embryos, the use of donated embryos, and the destruction of embryos. The Waller Committee in Victoria also addressed these issues and made recommendations which in some respects are different from those contained in the South Australian working party's report. As I have indicated, that reflects the difficulties in coming to grips with the legal, social and ethical issues.

At the present time, the Minister of Health has instructed the fertility clinics at the Queen Elizabeth Hospital and the Flinders Medical Centre in relation to certain legal and ethical matters. Already there have been disagreements publicly in those units and between those units in respect of those directions. Of course, directions or guidelines do not have the force of law and no sanctions apply for breach of or abuse of those guidelines.

None is subject to any form of independent scrutiny. Ideally, again as I have already indicated, we should have legislation before us dealing with the variety of issues that must be addressed, so that the Family Relationships Act Amendment Bill is seen as part of a comprehensive package addressing these issues. However, if that is not to be (and I recognise the complexity of it), I will, as I have indicated, propose that the Legislative Council establish a Select Committee to address a number of issues, including whether:

(a) to forbid the use of fertilised gametes of human beings for scientific or genetic experimentation;

(b) to permit the freezing of fertilised gametes that are surplus to the requirements of a couple during any one treatment cycle and to provide for the destruction of such fertilised gametes after one successful pregnancy or some other event.

That has been the subject of debate between doctors involved in the different clinics as to the destruction of embryos on the one hand and, on the other hand, as to whether the 10-year maximum period for which it is required that these embryos may be retained is too long. The Select Committee should consider whether:

(c) to forbid the use of a couple's fertilised gametes by another person or, if allowed, to propose laws to deal with that donation similar perhaps to the existing laws relating to adoption;

(d) to prevent the maintenance of fertilised gametes in laboratory culture medium beyond the physiological stage at which implantation will occur;

(e) to forbid use of known donors in artificial insemination by donor or *in vitro* fertilisation programmes;

(f) to ensure that, in the best interests of children from successful pregnancies, following *in vitro* fertilisation, the same degree of anonymity should apply as applies with children from successful pregnancies following other infertility treatment.

We have seen a range of publicity over the past two years following the progress of the so-called test tube babies as they grow up. That is undesirable in the interests of those children. The Hon. Dr Cornwall has publicly stated that he does not believe that that is a good thing for the children or for the community, and I am pleased that he shares the view that I hold on that. The Select Committee should consider whether:

(g) to prevent the release of any information concerning participants or donors in artificial insemination by donor or *in vitro* fertilisation programmes in order to maintain privacy and confidentiality.

The working party report recommended that there ought at least be genetic information about donors so that any genetic problems could be avoided in the programme. The Select Committee could consider whether:

(h) to prevent the flow of information relating to either the donor of gametes or the child born following the use of such donated gametes.

This much is prevented at present in relation to adoptions. That again is a very difficult question to resolve and is potentially controversial.

Hopefully the Select Committee could approach the issues on a bipartisan basis and report with recommendations and a draft Bill perhaps by the end of this session in March or April next year or, in any event, by the commencement of the next session, which I presume would be in about July next year. I know that in the meantime certain procedures will be pursued according to guidelines established by the Minister of Health, but I do not believe that the issues, which are so complex, can be resolved so quickly as to deal with them in legislation immediately. It is better to address the issue now with a brief to propose recommendations for a Bill within 12 months than to create controversy by precipitate action and divide the Parliament and public at large on issues which do require deliberate, mature and responsible consideration.

Such an approach would be supported by the public at large. In the *Advertiser* of 6 August the results of a Gallup Poll were published. Whilst 71 per cent of the Australians polled approved test tube babies (that is, babies born after an egg is fertilised by a husband's sperm), 72 per cent agreed with suggestions that programmes should be curtailed until all legal problems are resolved. I am not proposing curtailing the programme in that context; only that it should not be broadened until a Select Committee makes recommendations for clarification of the law and ethics.

One other issue, however, is pressing, and that is the issue of surrogacy. The South Australian working party recom-

mended that the law be clarified to ensure that surrogacy is not allowed. There has been a great deal of misunderstanding about surrogacy, particularly in relation to the *in vitro* fertilisation programme. In my view, it should be defined as the bearing by a woman of a child for another person or persons either for sale or for no material reward. This means that at birth the women bearing the child gives or sells the child to another person or other persons; she has no further title to the child. This, of course, leads to the conclusion that the child becomes a chattel—an object where property rights accrue and may be transferred—rather than a human being with inherent rights which ought to be paramount.

Surrogacy is a matter of considerable debate in New South Wales and the United Kingdom at the moment and it is only a matter of time before the issue has to be addressed here. It is also an issue that is current in Victoria because of four couples entering into surrogacy arrangements, which the Victorian Attorney-General has declared to be unenforceable at law. It was an issue that the Hon. John Burdett had to address when he was Minister of Community Welfare during the time of the Liberal Government in this State.

The Hon. C.J. Sumner: The Waller Committee is looking into it.

The Hon. K.T. GRIFFIN: The Waller Committee is looking into it. That is good. The Connon/Kelly Working Party addressed this issue in its report where it said:

> The Working Party is concerned by inappropriate use of the term surrogacy in situations where the mother who bears a child contributes half the genetic material to that child following either direct or indirect insemination. The community in general regards surrogacy as unacceptable. Social complications from such arrangements are inevitable. A woman who carried a child for nine months may not want to give that child up to its genetic parents at birth. She may seek to be entitled to have custody of the child. Although a surrogate mother contributes no genetic material to the child whom she bears, she may claim that there should be an analogy drawn between her role as the surrogate mother and the rights of the social father in the case of a child following the use of AID.
>
> The possibility of her refusing to hand over the child at birth could lead to serious emotional consequences because of a couple's expectations that the baby born to the surrogate mother was their child. It could lead to bitter litigation to reclaim the child from the surrogate mother, as has happened in the United States recently. Present legislation would require adoption of the child by the couple.

The Hon. R.J. Ritson: What about when neither couple wants it—because it has a hare lip or something?

The Hon. K.T. GRIFFIN: That is an added complication that needs equally to be addressed, because the interests of the child ought to be paramount. The Select Committee that I propose should consider that question. It is important to ensure that the law is clear. While the Select Committee is considering this question, surrogacy in respect of the artificial insemination by donor and *in vitro* fertilisation programmes should not be permitted and, to that extent, I will endeavour to move amendments to ensure that that position is reflected in the current law.

Surrogacy, in the context to which I have referred, has undesirable connotations in public policy. I am sure that women generally, as well as men, will agree that this is so. It is objectionable for women to be used as mere 'baby factories' or 'incubators'. It may even by equated in some contexts with slavery where children are the merchandise.

On this issue, I noticed that a report in the *Advertiser* of 30 July indicates that the Hon. Dr Cornwall has said that he had made a recommendation to Cabinet, and that it has been accepted, that surrogacy would not be permitted.

These, then, are some of the issues in respect of this Bill and the AID and IVF programmes. I commend the Attorney-General for addressing an issue that must be dealt with, although I cannot support all of the provisions of his Bill. I hope that he and the Government will be able to support a bipartisan approach to resolving the complex questions which these programmes raise.

The Liberal Party's position, in summary, is as follows:

1. We will support the Bill in so far as it deals with the status of children born to married couples through artificial insemination by donor and *in vitro* fertilisation procedures where one or both contributed genetic material for their child.
2. We will endeavour to amend the Bill to put it beyond doubt that surrogacy is not permitted in the artificial insemination by donor and *in vitro* fertilisation programmes.
3. We will introduce an amendment to the Sex Discrimination Act to put it beyond doubt that distinctions may be made between married and unmarried couples.
4. We will refer all other questions, including surrogacy, to a Select Committee in an attempt to produce a Bill to clarify the law and practice in respect of those questions as a matter of urgency.

To enable that position to be progressed, I support the second reading of this Bill.

The Hon. R.C. DeGARIS: The matter now before the Council is a very complex one. The Hon. Trevor Griffin has led the debate on behalf of the Liberal Party and has put the case extremely well, as he usually does. However, I hold some slightly different views from some of those held by the Hon. Trevor Griffin. The Bill, according to the second reading explanation, ensures that a child conceived by the fertilisation procedures of artificial insemination by donor and *in vitro* fertilisation will be, as far as the law is concerned, the child of the couple who have consented to that procedure. I have no criticism of the legislation before us, but I believe the Bill does not go far enough and does not address other questions that need to be considered. That question has been well covered by the Hon. Trevor Griffin.

In his second reading explanation, the Attorney-General said:

> The problem created by the failure of the law to keep pace with developments in medical science was first addressed by the Standing Committee of Attorneys-General in November 1977. The deliberations of the Standing Committee of Attorneys-General in respect of the status question had almost been finalised when the practice of *in vitro* fertilisation developed to the extent that successful pregnancies were beginning to be achieved. The Standing Committee considered it appropriate to incorporate within any legislation provisions which dealt with the status of children resulting from the procedure of *in vitro* fertilisation.

I point out to the Council that this topic was agreed to in 1977 and now, in 1984, we see legislation before the Council. The need for a closer relationship between the law reform agencies, including the Standing Committee of Attorneys-General, and a properly constituted Joint Party Committee on reform of the law, still seems to me to be essential as modern technology, particularly medical technology, moves so quickly.

I illustrated this point during my Address in Reply speech and I do so again during the passage of this Bill. The Bill deems a child born following *in vitro* fertilisation or AID procedures to be the child of a married couple, or the child of a couple living in a domestic relationship.

The Hon. R.I. Lucas: Genuine relationships?

The Hon. R.C. DeGARIS: I suppose all domestic relationships are genuine: I hope so. Furthermore, under new section 10c in clause 6 of the Bill, the woman who gives birth to a child will always be the mother of that child. The Bill provides also, in relation to a child born by the use of donor gametes, that the donor is not the parent of the child. That statement, taken from the second reading explanation,

could also be the plural—not the parents of that child. While the Hon. Trevor Griffin has already delivered to the Council an excellent speech on this Bill, as you would have detected, Mr President, I do hold different views on some of the questions he has touched upon.

I wish to direct the attention of the Council to certain aspects that concern me. Later in this speech I will be examining the question of surrogacy and the effects this Bill has on that matter, but the first question I wish to raise deals with genealogical bewilderment. The term 'genealogical bewilderment' was coined, I think, by an English child guidance worker called Wellisch, who wrote a paper for the English Mental Health Paper entitled 'Children without genealogy—a problem of adoption'. While it may be argued that IVF and AID have little to do with adoption, in many ways it is the same thing. When the Adoption of Children Acts began to appear in the early 1900s the view was well held that the adopted child should not be told of its origin.

This view has now been almost universally discarded, and the most influential adoption experts state that it is extremely important for all children, whether adopted, fostered, or brought up by step-parents, to know the truth of their parentage and origin. People with expertise writing on this point claim that this equally applies to children born by AID. In 1976 adopted persons in England and Wales (not so in Scotland) were given the legal right to learn the truth about their parentage. Similar changes in the laws of other Western countries have followed the English legislation. The only State in Australia that has followed this example is Victoria, as far as I know, and that legislation has a limiting clause on the disclosure. Although that legislation was passed by Parliament I do not think that it has been proclaimed, although another Bill is presently before the Victorian Parliament.

This legislation was introduced in England on the case histories of persons affected by what has been called 'genealogical bewilderment', and the almost desperate search by people for their origins. The case histories reported by child guidance experts also included persons born as a result of artificial insemination. The percentage of people adopted or born from AID affected by genealogical bewilderment (this is a psychiatric definition) is not high, but that does not matter very much in this argument. It is whether the condition, which we know does exist, warrants the attention of the legislators in relation to adoption and artificial conception.

I emphasise to the Council that the secrecy involved in AID and IVF obliges the medical practitioner, the husband and wife, and the donor or donors to conspire together to deceive the child as to its true parentage—to conspire together to deceive the child about his or her genetic identity. In this question, truth is violated and credibility undermined. This, whether we like it or not, is a serious ethical matter. Irrespective of whether the processes of adoption, AID or IVF have been involved the same principle applies: simply, that a person has the right to know the truth about his or her origins. If we see AID, IVF or adoption as an act for the benefit of the child, should we undo those benefits with a lie that could be destructive to the child?

I appreciate that, as far as AID and IVF are concerned there is a strong body of opinion in the medical profession opposing the keeping of records of information about sperm donors. Is this opposition based on the belief that if this knowledge is recorded the donor may be subject to the legal consequences of paternity? If that is the case, then this Bill as it is drafted frees the donor from that responsibility. Having freed the donor in that regard it should also remove considerably the medical profession's opposition to the right to know. The most recent official report of the right to know, the issue of disclosure, is the Victorian report, which the Attorney-General referred to by way of interjection, of the Waller Committee, which was established to consider the social, ethical and legal issues arising from *in vitro* fertilisation. It reported in August 1983 on the particular question of donor gametes in IVF. Some of the recommendations of that committee are as follows:

> Whether or not a person pursues his or her origins, it should be possible for everyone to discover them . . . The committee has therefore decided that children born as a result of the successful use of donor gametes in IVF, should be able to discover some information about their origin. In view of the strong interest of the child the committee has decided that comprehensive information about donors whose gametes are successfully used in an IVF programme should be maintained in a registry established and controlled by the Health Commission.

So far the Waller Committee has not made any recommendations on what information should be recorded. Clearly, the Waller Committee recommends that those records be kept and that information be available. Although changes to the law will be necessary as there are further changes in modern technology, I support the need for records of genetic parentage.

Just taking the step that the AID or IVF child is legitimised and the question of paternity and maternity clarified as far as the law is concerned touches only a small part of the issue. I have already referred to certain questions that may not be covered by this Bill, but in passing this Bill the Council is making decisions which will affect other issues that are to come.

I would like the Attorney-General, in his reply to the second reading debate, to provide information to the Council on the following nine questions so that I will have some information concerning the Government's view on these issues which are directly related to what we are doing in the Bill, although they are not points covered in the Bill. The questions are:

1. The need for records of the genetic origins of the child.
2. If records are kept, who will keep those records?
3. How comprehensive should those records be?
4. To whom should that information be available, and when?
5. The Government's attitude towards the child's right to know?
6. Does the Government believe that there is a right to know beyond the right to know of the child?
7. Does the Government have any views on the right to privacy of the donor?
8. Particularly in relation to AID programmes, does the Government favour that such programmes be conducted only by reputable clinics and medical practitioners?
9. What is the Government's view in relation to the sale of sperm?

I appreciate that many of these questions may not be related to the Act that is now under amendment, but my attitude to this Bill will be influenced by the Government's attitude to these questions. I believe the Victorian Parliament is presently debating a Bill entitled the Infertility Medical Procedures Bill which, I understand, deals with some of the questions I have asked the Attorney-General. I do not wish to place before the Council amendments on the matters I have referred to so far—

The Hon. Diana Laidlaw: They are not appropriate to this Bill anyway.

The Hon. R.C. DeGARIS: They may not be appropriate to this Bill, agreed, but I believe that, if there is to be no future legislation dealing with the questions I have raised, this Bill needs closer examination before we pass it. I want

to know what the Government proposes before I decide my approach to this Bill.

I turn my attention to clause 6 of the Bill, to which I referred earlier, with particular reference to new section 10c. It states:

> A woman who gives birth to a child is, for the purpose of the law of the State, the mother of the child, notwithstanding that the child was conceived by fertilisation of an ovum taken from some other woman.

Russell Scott, the Deputy Chairman of the New South Wales Law Reform Committee, in an article entitled 'Test tube babies, experimental medicine and allied problems' paid some attention to the question of surrogate motherhood. Russell Scott points out that surrogacy by means of AID is well established in the United States where expert legal and medical practitioners have established specialisations in this field. So far, most of the cases of surrogacy deal with the insemination of the surrogate with the sperm of the husband of a marriage that has not been able to produce a child. Whatever its future may be, one must admit, if one looks back through history, that surrogacy has a respectable lineage.

The Hon. Diana Laidlaw: It has a long one, but perhaps not a respected one.

The Hon. R.C. DeGARIS: It has a respected one, too—read your Bible and you will find out. Surrogate motherhood contracts raise important—

The Hon. J.C. Burdett: The laws of the last century were against it.

The Hon. R.C. DeGARIS: It depends entirely on how one defines surrogacy. One could argue this case for a very long time but, having a little information about what happens concerning surrogacy, I can assure the honourable member that it has been occurring for a very long time and, in most country towns if one knows what goes on, one will know that surrogacy has been a reasonably accepted procedure within our society. Russell Scott and others also take that view.

Surrogate motherhood contracts raise important legal and social issues that I do not wish to deal with in this debate, but with IVF an additional difficult legal and social question arises and complicates the issue still further. Will the test tube baby from a surrogate mother be the child of the surrogate, or of the donor of the egg, or both?

The Bill before us makes that decision, it says that the woman who gives birth to a child is the mother of the child. I believe that, in the case of a surrogate mother where the embryo is donated, the genetic mother should be deemed the actual mother. In this case, all parental rights of the surrogate should be extinguished.

The surrogacy question is difficult to face. Russell Scott, whom I previously mentioned, in his paper under the heading of 'The difficulty of achieving regulation', said:

> Take, for example, the question of surrogate motherhood, the community is barely aware of the practice, let alone at a stage when any consensus has begun to emerge, yet there exists the clearest evidence that the practice of surrogate motherhood is under way, and that it already raises extraordinary difficult social and legal issues.

We must also admit that surrogacy has been operating for thousands of years, yet suddenly we have become interested in the legal and social problems because of the intrusion of modern medical science. It is the intrusion of IVF that has caused the new concern.

While Russell Scott does not take any strong views on the question of surrogacy, others who have contributed to this debate are so concerned about it that they advocate prohibition of IVF procedures for surrogates. Elizabeth Baxter, Legislative Research Service, Law and Government Group, Department of the Parliamentary Library, Canberra, in her paper, 'Surrogate Mothers—The Legal Issues', in her concluding remarks states:

> It may seem harsh to prohibit the altruistic act of a volunteer, but this is an altruism which would appear to cause more problems than it solves. Prohibition in all cases would reinforce a decision not to make IVF procedures available for surrogate mother arrangements.

I reject this view, because such a law—the prohibition of surrogacy in all cases—would, apart from other objections, be an impossible law to administer.

The Hon. Diana Laidlaw: It depends on the definition. You have chosen a very broad definition.

The Hon. R.C. DeGARIS: I would like to again quote from Elizabeth Baxter, so that the Hon. Miss Laidlaw can understand what I mean. She said:

> Prohibition in all cases would reinforce a decision not to make IVF procedures available for surrogate mother arrangements.

That is clear in the definition she uses of surrogacy. I have said that I reject that view because the prohibition of surrogacy in all cases would, apart from other objections, be an impossible law to administer. We must accept surrogacy as having a respectable lineage and recognise that there has been a complication in this—

The Hon. J.C. Burdett: It's long; it's not respectable.

The Hon. R.C. DeGARIS: I do not know that it is not respectable. I find it difficult to condemn all cases of surrogacy. I agree with the Hon. Trevor Griffin that, if we come to trading in children, I am totally opposed to the idea, but there are cases of surrogacy that are acceptable. The lineage so far has not been not respectable in any case that I am aware of. I am suggesting, for the consideration of the Council, that, where a couple decide to use a surrogate with a fertilised egg of a woman (fertilised either by the husband or domestic partner), then the genetic mother be deemed the mother and the genetic father be deemed the father. I suggest that application for such surrogacy should be submitted to a minister who may agree to that implantation and agree to the legal status of the genetic mother.

Any amount of cases could occur. In relation to the first matter I dealt with, genealogical bewilderment, such a process would assist the child in relation to that problem. In his or her right to know, there is no complication of adoption or the question of genetic origin. The records are correct, the parental rights of the surrogate extinguished.

I will look at a case that may well be before a minister in this regard. A couple may have several children. The sister of the woman is married, and she and her husband are infertile and have decided that they would like a child. In that arrangement, where the situation is well known and can be seen by the minister, I believe it is possible that that could be agreed to as a surrogacy and that the child belongs to the couple. In a situation where a woman and her husband may be fertile but she cannot have a child herself, is there any reason why the egg should not be fertilised and the baby carried by her sister for her purpose? I see no objection to that at all, and that child should be the child of the genetic father and the genetic mother. I realise that there must be some limit, but to close the door completely on surrogacy does not fit the pattern that we need to follow.

On its own the interests of the child are better managed in the way I have suggested than under the proposal in the Bill. The whole question we are dealing with is a delicate and difficult one and the bit that we are considering in this Bill is only the tip of a very massive iceberg. However, no doubt exists that the manner in which we deal with the tip of the iceberg will determine how the rest of that iceberg will be influenced. Basically, I support the second reading, but I want more information on the Government's programme in relation to other matters that need to be introduced. I believe that the Bill as a whole should be referred to a Select Committee for report. A large number of issues must be addressed in this very complex problem. The only way that that can be done effectively is through establishing

a Select Committee to undertake that process and make recommendations to this Council that we may or may not follow.

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

TRANSPLANTATION AND ANATOMY ACT AMENDMENT BILL

Adjourned debate on second reading.

(Continued from 22 August. Page 450.)

The Hon. J.C. BURDETT: I support the second reading of the Bill. Our position is that the present Act, which we passed in 1983 (the Transplantation and Anatomy Act), prohibits the taking of tissue from a deceased person by anyone other than a legally qualified medical practitioner. That was the position under the previous law dating back quite some time. This issue has arisen because, as the Minister said in the second reading explanation (and this is in accordance with inquiries I have made), it has been the practice of the City Mortuary, under the jurisdiction of the City Coroner, for quite some time for eyes for the Lions Eye Bank to be taken by a technician who is not a legally qualified medical practitioner but who is most highly trained in a specialised way for the job, is a nurse and has a science qualification.

The Lions Eye Bank is highly regarded in international circles. It has done an excellent job for the community in South Australia. The proposal in the Bill is simply to regularise the procedure, namely, to provide that the Director-General of Medical Services may authorise a person other than a medical practitioner to take tissue for the purpose of corneal transplantation and for this purpose only. I stress that point, as was stressed in the Minister's second reading explanation.

I point out that one of the principal improprieties that can occur in the case of transplantation of tissue from a deceased person to a living person is the lack of proper consent procedures. That certainly has not applied here. In this case, in regard to the City Mortuary, the Coroner's office and the Lions Eye Bank, the consent procedures have been meticulously observed. That is the important issue. The only problem has been the apparent lack of technical qualifications, the difficulty being that the technician was not a legally qualified medical practitioner.

The whole procedure has been excellent, having served the State well. It will continue to do so. There appears to be no problems and no likelihood of abuse if the Director-General of Medical Services is able to authorise a person other than a practitioner for this limited purpose only, namely, to remove corneal tissue from a deceased person for the purpose of corneal transplants. For those reasons, I support the second reading.

The Hon. J. R. CORNWALL (Minister of Health): I thank the Hon. Mr Burdett for his contribution. The thrust of the Bill was explained quite succinctly in my second reading explanation and it has been summarised quite well also by the honourable member. I ask the Council, for reasons that are quite obvious, to expedite the Bill's passage so that we can regularise or legalise as quickly as possible a well established and very effective procedure that has now been carried on for a number of years.

Bill read a second time and taken through its remaining stages.

ADJOURNMENT

At 4.38 p.m. the Council adjourned until Wednesday 29 August at 2.15 p.m.