**INSTITUTE OF MEDICAL AND VETERINARY SCIENCE BILL 1982**

**LEGISLATIVE COUNCIL, 3 MARCH 1982, PAGE 3244**

**Second reading**

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

**The Hon. J.C. BURDETT (Minister of Community Welfare):** I move:

That this Bill be now read a second time.

Mr President, the second reading explanation is somewhat lengthy. In view of the hour I seek leave to have it inserted in Hansard without my reading it.

Leave granted.

**Explanation of Bill**

It provides for a redefinition of the powers, functions and responsibilities of the Institute of Medical and Veterinary Science. It embodies the Government's commitment to the concept of an institute providing a State-wide laboratory service of high standard in pathology and the allied sciences, with the functional ability to make significant contribution to research and development in the prevention and cure of disease in man and animals. At the same time, it provides the legislative framework for the restructuring of the institute in a manner which recognises its role as an integral part of a co-ordinated health system; in a manner which recognises the importance of integrated forensic services; in a manner which recognises that responsibility for its veterinary component properly belongs with a Minister and agency directly concerned with veterinary activities; and in a manner which provides the means for improved management and accountability in respect to both human and veterinary fields.

In introducing this Bill, I wish to outline the key factors which have led to the need for new legislation covering the operations of the I.M.V.S. As members would be aware, these factors are complex and diverse, and one must necessarily go back some years to place the matter in context.

The institute was established under its own legislation in 1938 which conferred on it service, teaching and research functions in relation to both human beings and animals. Largely because of the effects of the outbreak of World War II, it was not until1950 that the institute began to fulfil its original objectives. Demands for the institute's services increased steadily and during this period the institute was the dominant provider of pathology services in the State; a need was seen in the late1950s to expand services to various strategic regional centres. Then there was the explosive growth of laboratory tests of the 1970s. As the Badger committee observed, 'more and more doctors came to rely on the laboratory to augment and in some cases, replace, clinical judgment'. It was left to each doctor's own judgment as to whether the tests were necessary, performed properly or performed at all. The cost of this was covered automatically under the then Medibank agreement. All of this inevitably produced an explosive growth of pathology testing, with consequential cost increases. The institute was caught up in the middle of all this.

At the same time, advances in technology led to the automation of many laboratory procedures and the perfection of others, thus creating a demand for the introduction of more and more complex and expensive equipment to meet the new standards.

The institute developed into and built up an enviable reputation as the major State provider of medical and veterinary pathology services. Through periods of rapid expansion and technological development, the institute has kept the quality and range of services at the highest levels. Recognition for this achievement must be given to its former Director, Dr J. A. Bonnin, who could fairly be said to be the architect of the institute's pre-eminence in this whole field.

Also in the 1970s, the Governments in various States of Australia were examining the appropriateness of the organisational structures of their existing health administrations to cope with increasingly expensive, complex, diverse and technology dominated health services. In South Australia, the then Government's response was to establish by Statute the South Australian Health Commission, whose charter requires it to co-ordinate and integrate health services in the State. Health units, both Government and non-government, are able to establish a formal relationship with the Health Commission by a process of incorporation under the Act. Incorporated health units have their own boards of management with managerial responsibility to run the organisation within commission approved budgets, works programmes and staffing plans and in accordance with their constitution and commission policy.

Co-ordination and integration of health services necessarily implied that health support services and their role in the health care system needed to be taken into account. This was particularly important in the case of pathology services, in view of their significant impact on the cost and quality of the provision of health services, yet the then Government did nothing to indicate recognition of this need to provide the necessary legislative and administrative response to it. Soon after assuming office, the Government recognised the need for a review of pathology services in the State, and established a committee of inquiry under the Chairmanship of Professor Sir Geoffrey Badger to conduct such a review.

The committee's report covered the whole range of pathology services in South Australia, and set the Institute of Medical and Veterinary Science within the context of other pathology providers in the State.

The findings of the Badger committee were released for public comment. Following receipt of the comments, and taking into account Parliamentary scrutiny of events that occurred at the institute in the 1970s, the Government considered it to be a logical development to extend its review of pathology services by specifically examining the organisation, structure, administrative arrangements and services provided by the I.M.V.S., the State's largest public pathology service, with laboratories throughout the State.

A committee of inquiry under the Chairmanship of Dr Ronald Wells was commissioned to review critically all aspects of the institute's operations and to recommend changes to current arrangements, where necessary, to enable the institute to operate in the context of today's health care system.

The committee duly reported and, as members would be aware, the report was tabled in Parliament. The committee recognised and reported on the high levels, both in terms of quality and range of services, which the institute had maintained through periods of rapid expansion and development. However, it was evident that there had been a failure at all levels of administration—both Governmental and institutional—to make adequate provision for sound management practices to enable this expansion to take place in an accountable and rational manner. Despite the clear need for amendment to take account of the current and emerging needs of the 1970s, the previous Government allowed the I.M.V.S. Act to remain in its 1937 form throughout those years of turbulent change. The committee reported on 'serious inadequacies in the ability of the institute to cope with the demands it now faces, both in its structure and its management processes', and made recommendations designed to enable the institute to meet these demands.

The Government endorsed the general tenor of the committee's recommendations and announced its intention to rewrite the I.M.V.S. Act, and to establish an implementation team to overview progress in introducing the committee's recommendations.

The implementation team has been actively engaged in pursuing the recommendations and has already made considerable progress with the full cooperation of the council and director of the institute.

By the end of 1981 all recommendations had been considered and a course of action determined. Action on some recommendations has been completed; other recommendations, being of a longer-term nature, will require more time to be brought to fruition; a number are linked with the passage of this legislation. The implementation team will continue to meet and actively pursue the Wells committee recommendations.

The Bill which is being introduced today has been framed taking into account both the Badger and Wells committees’ recommendations and subsequent deliberations on the most appropriate form of legislation to enable the institute to meet the demands it faces.

The principal recommendations of the Wells committee were that the institute should be incorporated under the South Australian Health Commission Act by specific legislative amendments and that it should continue as a joint medical and veterinary organisation.

In relation to the recommendation for incorporation of the institute under the South Australian Health Commission Act, the Government agreed that it was inappropriate for an institute with an annual operating budget of over $17 000 000, whose services have a significant impact on the cost and quality of health services, to be independent both of express Ministerial control and direction, and of the South Australian Health Commission which was established to co-ordinate and integrate health services throughout the State.

However, the Government believed that, whilst incorporation under the South Australian Health Commission Act may be appropriate for a body engaged exclusively in the provision of health services, it would fail to recognise adequately the role of the institute as a provider of veterinary pathology services as well as human pathology services— in other words, a body whose role extended beyond human health care.

It would mean that a human health care authority would be responsible for animal health and other matters relating to the State's large stock industry, and to companion and sporting animals. The Government also noted the Badger committee's recommendation against incorporation and in favour of the institute maintaining its statutory status.

Taking all factors into account, the Government decided that the veterinary division of the I.M.V.S. should become the responsibility of the Minister of Agriculture and the Department of Agriculture, but should remain physically located with the I.M.V.S., thus allowing the professional and practical relationship with human pathology to remain unchanged. To do otherwise would have involved cumbersome and probably unworkable dual Ministerial involvement which would have had the potential to compound rather than remedy the managerial problems identified in the Wells Report.

Under the proposed arrangements, the legislation has been written in a manner which brings the human health components of the I.M.V.S. into a relationship with the Health Commission and the Minister of Health, similar to that which exists with health units incorporated under the Health Commission Act. At the same time the Minister of Agriculture will assume responsibility for the delivery of veterinary laboratory services and the conduct of associated research in veterinary science. The Division of Veterinary Sciences will be transferred to the administrative control of the Department of Agriculture, although its staff will continue to be located in their present work areas. The legislation accordingly provides for officers and employees of the Veterinary Division to become officers and employees of the Department of Agriculture upon the commencement of the Act. It is made clear in the Bill that the salaries, wages and accrued leave rights of such persons are protected.

The Minister of Agriculture will determine policy on the provision of veterinary laboratory services and the conduct of associated research, and will have responsibility for management functions including budgeting and staffing. Funds for the operation of the Veterinary Sciences Division will in future be appropriated to the Minister of Agriculture, instead of the Minister of Health and arrangements will be made for a recharge of services between the Department of Agriculture and the I.M.V.S. The I.M.V.S. will provide physical and administrative facilities to assist the Minister of Agriculture in carrying out veterinary responsibilities, under terms and conditions agreed between the Minister of Agriculture and the Minister of Health, and the legislation provides for this.

A Veterinary Laboratory Services Advisory Committee, with broad terms of reference, will be set up to advise the Minister of Agriculture on veterinary science. The Wells Committee emphasised the desirability of providing additional advice on policy directions in this field. It is therefore proposed that members of the committee will represent the Department of Agriculture, stockowners, owners of sports and companion animals, and private veterinary practitioners. The Director of the I.M.V.S. will also be a member of the committee. This committee will be set up administratively, rather than provided for in the legislation, since it is substantially a Minister of Agriculture committee.

Because of its continuing responsibility to provide facilities for the provision of veterinary laboratory services, the I.M.V.S. council will have two members nominated by the Minister of Agriculture. Under the legislation the Minister of Agriculture will nominate an officer of the Department of Agriculture concerned with veterinary matters and a representative from private veterinary practitioners as members of the council.

The Government accepts that the transfer of the Division of Veterinary Sciences to the Department of Agriculture will entail an expansion of the role of that department, to include responsibility for laboratory animals and increased responsibility for laboratory work associated with companion animals, animals in zoological institutions, animals used in sport, including racing, and some aspects of diseases common to humans and animals.

It is also accepted that the Department of Agriculture will be responsible for maintaining a central animal breeding facility which can supply laboratory animals of a quality and quantity consistent with existing requirements and standards. The department will be responding to the future requirements and standards of science and medicine. At the same time, it will need to ensure that costly proliferation of animal breeding facilities does not occur. Consistent with Government policy, it is intended that the Department of Agriculture move towards recouping the full cost of animals produced. A review is currently under way to determine the most appropriate arrangements to enable this to be implemented, whilst ensuring that medical science has access to the quantity and quality of animals required for teaching, research and service provision.

The Department of Agriculture will need to provide clinical veterinary services for the animal surgical facilities at the I.M.V.S. This will be done. It is intended to recruit a suitable clinical veterinarian. Steps have already been taken to provide five further veterinary positions for the veterinary laboratory at Straun in the South-East of South Australia. These five positions will enable an improved laboratory service to be provided to stockowners in this most important agricultural region.

While these proposed arrangements do not follow the letter of either the Badger or the Wells committee recommendations, they do in fact achieve the Badger and Wells objective of retaining an integrated human and animal laboratory facility. The opportunity for scientific interchange and co-operation between medical and veterinary scientists is preserved by the new arrangements. The high order of sophistication of veterinary technology which has been established at the institute is maintained. Health needs in relation to veterinary matters, particularly with respect to diseases common to man and animals, will continue to be protected. Veterinary matters will become disentangled from the Health Commission and veterinary science will become directly related to the section of the community and the sector of the industry it serves. Ministerial and departmental responsibilities will be clearly delineated and an improved framework will be provided for accountability and efficiency in the management of veterinary laboratory services. The arrangements will bring veterinary pathology into line with the structures applying in other States, where veterinary laboratories are attached to Departments of Agriculture.

Honourable members will note that the legislation contains only three provisions relating to veterinary matters—a provision to effect the transfer to the Department of Agriculture of officers and employees and ensure that their rights are protected; a provision which ensures veterinary representation on the council of the I.M.V.S.; and a provision which requires the institute to provide services and facilities for the Department of Agriculture in relation to veterinary services (including services for veterinary surgeons in private practice) or research carried out by that department. It would be inappropriate for the legislation to canvass the provision of veterinary laboratory services and associated research to any greater extent, since these functions will be carried out as part of Public Service operations in the Department of Agriculture (albeit located at the I.M.V.S.), whilst this Bill deals with the I.M.V.S. and its functions. However, the Government believes that honourable members should be informed and assured as to the Government's plans for veterinary laboratory services and the preceding detailed explanation seeks to do that.

Turning to the other provisions of the Bill, honourable members will note that the legislation deals with the institute as an integral part of the health system. The institute is constituted as a body corporate, administered by a 10-member council, the composition of which is in line with the recommendations of the Wells committee. An officer of the Health Commission will be a member of council, in view of the proposed role of the S.A.H.C. in relation to the institute. In recognition of the special relationship which the institute has, and will continue to have, with the Royal Adelaide Hospital and the University of Adelaide, both organisations will continue to nominate two members each. An important addition to council will be two persons with experience in financial management nominated by the Minister of Health—this is in line with the Government's commitment to improved financial and administrative control of the institute.

Because of the institute's continuing responsibility to provide facilities for the provision of veterinary laboratory services, the council will have two members nominated by the Minister of Agriculture—one who is an officer of the Department of Agriculture concerned with veterinary matters and one who is a veterinary surgeon in private practice.

Another important addition to the council is the Director, who will be an ex officio member. Since the institute is not only a teaching, research and service-based organisation, but also a business operation, the Government believes that, in keeping with business practice, the chief executive officer should be a member of council. The Chairman and Deputy Chairman of council will be appointed by the Governor, and one or other of them must be present for a quorum to be constituted at a meeting. This is in line with Wells committee recommendations.

Clause 14 sets out the powers and functions of the institute. It will continue as a provider of medical pathology services for hospitals, other health care organisations and private medical practitioners. The Health Commission's co-ordinating and rationalising role is recognised, with provision being included to enable the Health Commission to set policy in relation to use of pathology services by hospitals and health care organisations funded by the commission. The institute will also provide a public health laboratory service in accordance with the Health Commission's requirements, consistent with the Health Commission's responsibilities in the public health area.

The established role of the institute is maintained in that it is empowered to conduct research into fields related to its services, to provide facilities to assist others to carry out research and to assist tertiary education authorities in teaching in related fields of science. The legislation provides the necessary flexibility for the institute to maintain a balance between its diagnostic services, research and teaching.

One area which is not included in the specified functions of the institute is the provision of forensic services. There has been repeated reference to forensic services in a number of reports and submissions over several years, including the Badger and Wells Reports. Different options have been proposed for the organisation of these services. However, a common theme of all of them is that the impartiality of forensic services must be safeguarded, and that the administering authorities should reflect that independence. Another common view is that the activities of laboratories principally engaged in various aspects of forensic services should be effectively co-ordinated to maximise efficiency and reduce delay in providing the police and legal services with essential and useful information.

The Government strongly endorses both these views and believes it is fundamental to the administration of justice and to the maintenance of public confidence in the judicial system, that forensic services of the highest quality, administered independently of any law enforcement or legal service agency, should be available.

Following a review of the Wells committee recommendations, the I.M.V.S. council recommended that the present Forensic Pathology and Forensic Biology Sections of the Division of Tissue Pathology, I.M.V.S., be amalgamated with the Forensic Chemistry Section of the Department of Services and Supply, to form an integrated forensic science service outside the I.M.V.S.

The Government readily accepts the importance of an integrated forensic service and has now determined that the Forensic Pathology and Forensic Biology Sections of the I.M.V.S. should amalgamate with the Forensic Chemistry Branch of the Chemistry Division, Department of Services and Supply, to form a Forensic Services Division within the Department of Services and Supply. The three elements of this service are already physically located in the Forensic Science Centre, Divett Place and the Government believes that organisational integration will enhance co-ordination, of these services. The Bill accordingly makes provision for the staff transfer. It is made clear that the salaries, wages and accrued leave rights of such persons will be safeguarded in the transfer. Special attention has been, and will continue to be, given to the need to ensure that under the new arrangements, forensic pathologists and biologists are able to maintain a continuing association with their professional peers, particularly in the areas of high standard training programmes, continuing education and peer review. Admin­istrative arrangements will ensure that transferring staff have access to promotional vacancies at the I.M.V.S.

Turning to other major provisions of the Bill, the institute is brought under express Ministerial control and direction and within the oversight of the Health Commission. As mentioned earlier, the Government considers it to be quite inappropriate for an organisation with a substantial operating budget, whose services have a significant impact on the cost and quality of health services, to be independent of express Ministerial control and direction, and of the South Australian Health Commission.

Provision is made for the appointment of a Director of the institute, who will be the institute's Chief Executive Officer. The Director will be a contract appointment, as recommended by the Wells Report. It is intended that Dr H. D. Sutherland's appointment as 'interim' Director be extended for a further year, to cover the transitional period which the institute is undergoing, and to enable it to seek an appropriate person to become its new Director. I take this opportunity to pay tribute to Dr Sutherland, who has been carrying out his role with considerable distinction and effectiveness during this transitional phase.

The remaining provisions of the Bill follow closely those in the Health Commission Act which apply to incorporated hospitals and health centres. Staffing provisions are consistent with those for health units. The same entitlements relating to portability of accrued leave rights are given to institute officers and employees as have been provided in relation to officers and employees of the Health Commission and incorporated health units. Budgets, capital works programmes, variations in services or facilities, and staffing requirements are required to be submitted to the Health Commission in order that they may be determined within overall health priorities. This is consistent with the commission's role of rationalising and coordinating health services. The Health Commission becomes the employer for the purposes of the Industrial Conciliation and Arbitration Act, as is the case with the Health Commission and incorporated health units.

In summary, the Government believes that the legislation provides the framework for restructuring of the institute and development of sound management practices. It recognises the institute as an integral part of the health system. It provides the institute with the legislative backing to meet the modern-day demands it now faces.

Clause 1 is formal. Clause 2 provides for the commencement of the Act by proclamation. Clause 3 provides the necessary definitions for the Act. Clause 4 repeals the existing Act.

Clause 5 vests all the rights and liabilities of the council under the repealed Act in the institute under this Act. All officers and employees of the institute under the repealed Act are transferred over to the institute under this Act, except for those officers and employees presently in the veterinary division and the forensic pathology and forensic biology divisions of the institute. Those officers and employees are to be transferred upon the commencement of the Act to the Department of Agriculture in the case of persons in the veterinary area, and the Department of Services and Supply in the case of persons in the forensic pathology and forensic biology areas. It is made clear that this transfer will not affect the salaries, wages or accrued leave rights of such persons.

Clause 6 continues the institute in existence and vests it with corporate status with the usual powers. Clause 7 provides for the appointment of a new council comprised of 10 members, nine being appointed by the Governor and one being the Director of the institute. Members are appointed for terms of not more than four years, but are eligible for reappointment. Clause 8 provides for the appointment of a Chairman and a Deputy Chairman. Clause 9 provides for the appointment of a deputy to any member of the council. Clause 10 sets out the usual provision for the removal of members of the council from office, and for the filling of vacancies.

Clause 11 preserves the validity of acts of the council in certain circumstances. Council members are given immunity from liability. Clause 12 requires members of the council to disclose interests in contracts made by the institute, and prohibits a member with such an interest from taking part in any decision relating to the contract in question. Clause 13 sets out certain procedural matters in relation to the meetings of the council.

Clause 14 sets out the functions and powers of the institute. The institute will provide a medical pathology service for hospitals and other health organisations as directed by the Health Commission, and also, to an extent determined by the institute, for such medical practitioners in private practice as may refer pathology tests to the institute. The institute will provide services and facilities to enable the Department of Agriculture to carry out the veterinary functions currently undertaken by the institute. It will also provide a public health laboratory service as required by the Health Commission. The institute is empowered to conduct research, or assist others to carry out research, into fields of science related to its services, and may also provide assistance for teaching at tertiary level in those fields of science. The institute is given the usual powers of delegation, etc., and may charge for the services it provides. It is made clear that the council is the governing body of the institute.

Clause 15 places the institute under the control and direction of the Minister (i.e., the Minister of Health). The Minister is required to consult with the Health Commission before exercising his powers of direction and control. The institute is required to furnish information to the Minister or the Health Commission if requested to do so. Clause 16 provides for the appointment of a Director of the institute. The present Director will become the first Director under the new Act. Appointments to, and dismissals from, the office of Director cannot be made by the council without the approval of the Minister, who is required to consult with the Health Commission in the matter.

Clause 17 provides for the appointment by the council of the officers and employees of the institute. No office may be created unless it has been provided for in a staffing budget approved by the Health Commission. Officers appointed to the institute are not subject to the Public Service Act, but certain sections of that Act may be applied to such officers by proclamation, if the need arises. A public servant who currently works in the institute of course will remain in the Public Service unless he wishes to be appointed as an officer of the institute.

Clause 18 gives officers and employees of the institute the right to continue in, or join, the South Australian Superannuation Fund. The same entitlements relating to the portability of accrued leave rights are given to institute officers and employees as have been provided in relation to officers and employees of the Health Commission, incorporated hospitals and incorporated health centres.

Clauses 19 and 20 provide for the vesting of land in the institute, or under the care, control and management of the institute. Clause 21 obliges the institute to keep proper accounts which are to be audited by the Auditor-General at least annually. Clause 22 requires the institute to submit detailed estimates to the Health Commission each year. Clause 23 provides for payment of the necessary funds out of moneys appropriated by Parliament. Clause 24 gives the institute power to borrow, and to invest, subject to the usual Treasury constraints.

Clause 25 empowers the council to make rules for various 'internal' matters. These rules must be approved by the Health Commission and then confirmed by the Governor, before being laid before Parliament. Clause 26 provides a similar power to make by-laws for the purpose of regulating conduct in the grounds and premises of the institute. Traffic and parking offences may be expiated.

Clause 27 brings the officers and employees of the institute within the Jurisdiction of the Industrial Commission and the Industrial Court. The Health Commission stands in the shoes of employer with regard to any state industrial proceedings or any industrial agreement, in the same way as it does for officers and employees of incorporated hospitals and health centres. The Health Commission is given full control over industrial proceedings initiated by the institute.

Clause 28 gives certain employee organisations the right to make submissions to the Health Commission and the institute over any matter arising out of the administration of this Act. Clause 29 deems the Director to be the Permanent Head, for the purposes of the Public Service Act, of those officers of the institute who are public servants. Clause 30 makes it an offence for an officer or employee of the institute to divulge personal information relating to any patient, unless he is authorised or obliged to do so by his employer or by law. Clause 31 provides for an annual report to be submitted by the council. This report will be laid before Parliament. Clause 32 provides that offences under the Act are to be dealt with in a summary manner. Clause 33 gives a general regulation-making power.

**The** Hon.**FRANK BLEVINS** secured the adjournment of the debate.