



PRIME MINISTER

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This is basically an opportunity to enable you to ask questions of myself or Mr Hunt or Mr Ellicott, on the law of this particular matter.

The Government was advised, as I indicated in the Parliament this morning, in a joint opinion, that indicated that continued payments to the States for the purposes of the hospital agreements would not be valid because the agreements had not been drawn up in conformity with the Act that had been passed through the Federal Parliament. And this concerns us, because quite obviously the Commonwealth needs to meet its obligations, there is an understand to pay half, under the present arrangements of the costs of running the major hospitals in the States, and we're advised that because of the joint opinion that has been provided by the Attorney and the Solicitor-General, that the Auditor-General would not authorise continuing payments under the present legislation.

So at the moment, special legislation is being drafted which will cover the situation until the 30 September, and in the intervening ^{time} the Minister with his colleagues, as I indicated this morning, will be having discussions with the States about continuing and on-going arrangements that would be within the law. This is really only repeating what I said in question time this morning, but I want to emphasise, that no arrangements in relation to patients of any kind will be altered by this situation that has been revealed, this inadequacy in the law. I want to give the strongest possible assurance that nobody need be concerned about these particular matters. The rights and interests of patients under Medibank will be protected, and the emergency that we'll be introducing will make quite certain of that. I can't give the full details of that legislation at the moment, because it's still being drafted - there are a couple of aspects of it that need sorting out - but the Attorney and the appropriate Departments and the Treasury are looking at those particular matters. But it's likely that it will be done on the basis, as I indicated again this morning, of working out the sort of total payment that would go to each State in these areas over the next few months, and providing legislation for that bulk sum to go to the States, for the purposes required.

QUESTION: Prime Minister, you said in Parliament this morning that the Attorney-General's department advised the department of Social Security last year that some of the hospital agreements weren't in compliance with the Act. Why is it that nothing was done until now about the acts if you suspected, or someone suspected that they weren't in compliance?

PRIME MINISTER: I think you'd have to ask other people that. The dates of the letter were in April, and there was an exchange of letters involving April and May of 1975 - a different administration was in power and it's a question as to whether or not Ministers were aware of the situation. This situation came to our knowledge yesterday or the day before - within the last couple of days. But we had not been advised of it before then. I'm advised, but I can't vouch for it, you could ask the people concerned, that the previous Government was aware of this situation, but you also need to understand that the legislation had been part of the double dissolution procedures, and any amendments to the legislation after it had gone through the double dissolution procedures and the Joint House would have enabled the Senate to be in the position of blocking the legislation and the previous administration might not have wanted to run that risk, and therefore decided to do nothing about it. Now, I make no allegation about that at all. I've been given conflicting advice about whether any Ministers in the previous administration knew of this or whether they didn't. But departments were certainly aware of it and there was an interchange of correspondence between departmental officials in relation to it.

QUESTION: Prime Minister, why has it taken so long to be brought to your attention? Are you saying there's been some degree of inefficiency with regards to your (inaudible) advisers?

PRIME MINISTER: I make no criticism of that at all. I quite specifically asked the Attorney-General to look at these particular agreements as I indicated in the Parliament, because of one or two statements that had been made by one or two States in relation to the hospitals agreements. And so I said look at the provisions of the agreements and see what powers lie in the hands of the States, what powers lie in the hands of the Commonwealth, and this was the result the Attorney came forward with.

QUESTION: Prime Minister, what will be the effect on the States. Will money at all stop flowing.

PRIME MINISTER: No, the emergency legislation is going to cover the period until the 30 September so that money will continue to flow. So that hospitals will be protected, but above all so that patients will be protected, and that's what were concerned about, preminently, and absolutely. We're going to make quite certain of that. What is needed is for the Minister for Health and his counterparts, properly advised by law officers to get together with the States to sort out the situation that's developed. But this is a matter between Governments, hospitals, are going to be protected, and patients are going to be protected. One of the reasons I wanted to respond to the requests for further information in these particular matters was to give a complete and absolute guarantee in relation to those matters.

QUESTION: Sir, when did you ask the Attorney-General to look at these agreements?

PRIME MINISTER: Two days ago.

QUESTION: And what were the specific matters that prompted you to do this?

PRIME MINISTER: They'd been some rather strange statements by a Minister in New South Wales, and they'd been statements by one or two other people also about the matters, ~~and~~ it was those matters that prompted me to ask the Attorney to look at the agreements?

QUESTION: And it only took them two days, the Attorney-General's department, and the Solicitor-General's department to come up with this?

PRIME MINISTER: They went straight to the law, straight to the agreements, and demonstrated that lawyers can act swiftly when there's a need to.

QUESTION: Sir, are you going to release to us the advice upon which you've made this decision, the advice of the Solicitor-General and Attorney-General?

PRIME MINISTER: At this stage not, but I would be intending that a copy of the joint opinion should go to the Premiers concerned. And I think at this stage the decision to send a copy of that joint opinion to them is the appropriate and proper course.

QUESTION: Why won't you release it to us?

PRIME MINISTER: I think at this stage the appropriate thing is for a copy to go to the Premiers who are intimately involved. It after all involves an agreement between Governments. We've been given a certain opinion in strong terms, and as to any future decision, well, at the moment, let me leave that open. But certainly it should go to the Premiers in the first instance.

QUESTION: Prime Minister, you said you had had conflicting advice about whether the Labor Ministers knew about this conflict in the Act but you're saying that you feel that some Labor Ministers did know?

PRIME MINISTER: I would find it very difficult for them not to know, but I make no allegation about it. I don't know.

QUESTION: Mr Fraser, will you be raising this specifically with Premier Wran in a few minutes time?

PRIME MINISTER: I'd imagine that he'd want to talk about it, yes.

QUESTION: Can I ask Mr Ellicott where this conflict arises, what is the legal point?

MR ELLICOTT: Well section 30 of the Act requires that any agreement that's entered into should be substantially in accordance with the heads of agreement. And those heads of agreement are set out in the schedules of the Act. Well, fairly clearly, when you look at the agreement and ask the question whether it's substantially in accordance with the heads of agreement, the answer is no. And I refer there to head of agreement No. 3.

QUESTION: Mr Fraser, now that this situation has arisen, and I notice that any emergency legislation will take only until October 1, the new arrangements for Medibank, would you expect to be in a much more powerful position now in seeking increased hospital charges in States.

PRIME MINISTER: I think we're in a very strong position in relation to that anyway. Because what the Minister's proposing, what's the Government's accepted and fully supports, and what our Parties support, is that there'd be no change in standard ward treatment which is the basic Medibank approach and standard of health care. But then there are people, in many different categories who wish to insure either for intermediate or private ward treatment - and there are still 60 or 70% of people covered for that throughout the Australian community. Now, the question of increasing in public hospitals the intermediate and private ward charges would have the result of lessening the subsidies to those who wish to pay something else to upgrade their bed treatment, and to enable their own doctor to follow them into the hospital. And we felt that there was no real justification on those who were content with Medibank treatment, paying the levy, or on lower incomes, not paying the levy at all - and the general run of taxpayers to provide additional subsidies to those seeking intermediate or private ward treatment. Now I do believe in some of the comments, been a real measure of misunderstanding in relation to this particular matter ~~and~~ I think when the Minister speaks with state Ministers, and when the matter is properly understood, the logic of what we're proposing will stand in its own right.

QUESTION: Prime Minister, that doesn't answer Mr Howard's question. Does the new situation give you a stronger position to argue with the States?

PRIME MINISTER: I suppose I'd have to say yes.

QUESTION: Prime Minister, can you give us some idea of what amounts of money are involved here?

PRIME MINISTER: I wouldn't know, the Minister might know but you see there are two questions - there is also a view as to whether past payments are valid, but otherwise you've got a question of part of May, June, July, August, September. So you've got several months of the year - they'd be very considerable sums...

PRIME MINISTER: About \$60 million a month.

QUESTION: Will this legislation seek to make it retrospective back to July 1, when Medibank started, in fact all the payments.

PRIME MINISTER: No, the emergency legislation we'll be bringing through will be providing for continued payments from now, until the 30 September. Other matters will be resting upon negotiation and discussions between the Minister and his State counterpart.

QUESTION: So there is the chance that some of the States will owe the Commonwealth money, if it's considered that those payments have been invalid?

PRIME MINISTER: I suppose in technical terms you could put it that way, but you know, one might judge the reality of that sort of situation.

QUESTION: Sir, disregarding how much the former Minister may have know or not have known, are you surprised at all that whoever gave that opinion to the Social Security Department in April didn't give you that advice?

PRIME MINISTER: Earlier...?

QUESTION: Earlier.

PRIME MINISTER: But this advice was offered in April of last year - I don't know if he's in the same position or not, I really don't. Our own particular examination of Medibank had n't come across this particular point because I don't think that it had occurred to any person in the Government and I doubt if it had occurred to anyone in the Medibank Review Committee that there was any conflict between the actual agreements and the law as it had been passed.

QUESTION: But did the Review Committee investigate these legal points?

PRIME MINISTER: I would have doubted it - I don't think it would have occurred to anyone that there was a conflict, until these specific questions were raised, as I indicated two days ago.

QUESTION: Is it fair to say that the invalidity would have never come to light had you not undertaken a review of Medibank?

PRIME MINISTER: I think it probably would have come to light, at some stage, nobody could say when, but invalidities of this kind, I would have thought, would have a way of surfacing in one form or another. I think it's much better that it's surfaced now rather than much later?

QUESTION: Do you think it would be a fruitful exercise to ask the Attorney-General and the Solicitor-General to take a look at some of the other legislation that's been tabled in the past three years?

PRIME MINISTER: Well it might well be a fruitful exercise and the specific agreements with the states that have been encompassed in a number

of matters, are in fact, under examination as a result of this, for that very purpose.

QUESTION: Since you found this flaw...?

PRIME MINISTER: Yes, since this instance?

QUESTION: That means all other agreements?

PRIME MINISTER: There were a number of formal agreements signed, and if there are illegalities with them, if they're not in conformity with the law, I think we need to know about it, so that the matter can be properly rectified.

QUESTION: Mr Nixon raised the question of the South Australian Railway (inaudible). Are we to take it that you're examining all agreements made...

PRIME MINISTER: Well the major agreements will be under examination yes, we don't want to be surprised by this sort of situation in some other arena?

QUESTION: It may also mean that you can't get out of some of them?

PRIME MINISTER: It depends on the nature of the agreement.
