

Legislative Council

Wednesday, 6 April 1994

THE PRESIDENT (Hon Clive Griffiths) took the Chair at 2.30 pm, and read prayers.

MOTION - URGENCY

Sunset Hospital, Sale; Mt Henry Hospital, Privatisation

Debate resumed from 29 March.

HON KIM CHANCE (Agricultural) [2.32 pm]: When I spoke about this matter on 24 March for about 10 minutes, I outlined the fundamentals of the situation with these two nursing homes and concentrated on the recommendations made by Mr Les McCarrey and others in their report, the agenda for reform. The factors that are identified in that report require a careful and sensitive approach by Government to ensure that to meet the needs identified by Mr McCarrey and his associates will not cause unnecessary concern to the residents of those two hospitals. Some of those residents are very long term residents, and many of them have no family support. In many cases, the only support they have is from their fellow residents, whom they may have known for 10 years or perhaps longer.

I turn now to a letter from the husband of one such long term resident, without identifying that resident, addressed to the Minister for Health, Hon Peter Foss, which states -

The Mount Henry Hospital News Bulletin for November 1993 under the hand of Dr C.R. Joyner seeks to explain the State Government's policy in relation to shift in philosophy of nursing objectives at Mount Henry Hospital.

As you are no doubt aware, the decision has been taken to progressively reduce the number of nursing home beds at Mount Henry Hospital, apparently "*in line with the policies of both the present and previous State Governments*".

Mount Henry Hospital has a long history of caring for the aged and disabled. It became a public hospital in 1966, and over the last decade has been a facility at which seriously disabled people have been cared for in circumstances where they would otherwise have found it very difficult to attain the level of nursing care which has been provided.

That last sentence is of particular significance. The letter continues -

The proposed reduction in bed numbers at Mount Henry Hospital and its associated reduction in hospital staff will create enormous problems for current residents at the hospital and their families. I am one such person who will be gravely affected if the proposals contained in the Mount Henry Hospital News Bulletin for November 1993 are implemented. My wife . . . has been a patient at Mount Henry Hospital since 1980 following an unfortunate stroke. She has come to regard Mount Henry Hospital as her home and like many others has been well settled there over the last twelve years.

To now have to transfer her to a private nursing home is likely to upset her health and well-being, particularly as she has such a long history of residence at Mount Henry. In any event, my enquiries of private nursing homes reveals that it is absolutely impossible to obtain a position for her in the private nursing sector. Private nursing homes are full and most of them have long waiting lists.

The effect upon families of patients like my wife has been apparent to me during recent visits to Mount Henry, and many of them are extremely concerned about the need to move their loved ones or relatives from the hospital, in many cases with no prospect of alternative accommodation.

The writer then goes on to request a meeting with Hon Peter Foss. I very much hope that that meeting took place.

Hon Peter Foss: It certainly did. He wants another one. He has met with everyone many times.

Hon KIM CHANCE: I am not keen to identify the person.

Hon Peter Foss: We all know who he is.

Hon Sam Piantadosi: Is that hospital in the South Metropolitan Region?

Hon KIM CHANCE: Yes. The reply to that letter came from Dr C.R. Joyner, the general manager of the east metropolitan health service. I will not go through the entire reply; however, in part, it states -

In order to preserve the ability to cater for those whose needs are assessed as being beyond those available in the private sector, it is imperative that all patients are cared for in the appropriate facility according to the level of care required . . . The Manager at Mount Henry Hospital is aware that beds in the private sector are at a premium and that waiting lists exist for most nursing homes. However, as outlined in the November News Bulletin, every assistance will be given to arrange transfer to a facility of the patient's choice, even though this may take some time.

I wonder what "every assistance" might mean. Without labouring that point, I hope the Minister might note that question.

Hon Peter Foss: It was made quite clear on a number of occasions.

Hon KIM CHANCE: Clearly, the people who are concerned about this matter do not accept that.

Hon Peter Foss: This person has been told that on I do not know how many times by how many people. Even though this person has been told that no-one will be thrown out, he still comes back and says, "The patients believe they are entitled to find alternatives themselves." We have made it quite clear that we allow them to make a choice. It is a bit different from saying, "You have to find it."

Hon KIM CHANCE: I hope the Minister is able to make that point clearly on the record when the ample opportunity I will be providing him arises. The general manager of the east metropolitan health service, in respect of ratios, went on to say -

Staffing levels under the commonwealth funding formula for nursing home patients, completed by an independent survey in April 1993, showed excess nursing and personal care hours of almost 50%. Whilst it is appreciated this cannot be seen as a finite result, it is nevertheless indicative of the gross discrepancies in the staff/patient ratio between the public and private sector. Although the private ratio would not be seen as perfect and standards of care vary greatly, there are numerous facilities which provide excellent care within those limitations, and it should therefore be possible for Mount Henry to achieve comparable results.

I am certain that the statement by Dr Joyner is accurate. I will not dispute that for a moment. However, it does not recognise that many of the patients cared for at hospitals like Mt Henry Hospital and Sunset Hospital are of the type who require much more intensive nursing services.

Hon Peter Foss: They cannot be moved out - that point has been made quite clearly, too.

Hon KIM CHANCE: By Sunset Hospital?

Hon Peter Foss: That is not intended to be an acute hospital. It is not meant to have acute beds at all.

Hon KIM CHANCE: There is a difference between acute and long term intensive care; that is, intensive in those circumstances.

Hon Peter Foss: Mt Henry Hospital certainly does provide care which is of a higher standard than nursing home patients require, and quite reasonably so because some people do require it.

Hon KIM CHANCE: I am prepared to acknowledge that.

Hon Peter Foss: They are the ones who will be moved into appropriate surrounds.

Hon KIM CHANCE: I have acknowledged the breakdown of the classes of patient at Mt Henry Hospital. Let us not go into that now. I will refer very briefly to the annual report of Sunset Hospital. The mission statement reads -

Sunset Hospital provides a comprehensive range of quality Health Services to elderly and disabled people whose needs cannot be catered for in the Private or Voluntary Sector and is therefore reactive to the requirements of other Health Services in the catchment area.

I referred to the mission statement to make it quite clear that we are talking about classes of patients who were recognised not only in the statements by the writer of the letter from which I quoted and in the annual report of Sunset Hospital, but also, in a telling sense, from the Report of the Independent Commission to Review Public Sector Finances, the McCarrey report. It also recognised a class of patient for whom there is no appropriate place to go, and certainly one not provided by the private sector now.

Hon Peter Foss: That is a question of fact.

Hon KIM CHANCE: I think I have established fairly widespread recognition of that. The Government's reaction to all of this has been to show all of the compassion and skill that it showed in respect of Northampton and Kellberrin hospitals. On 16 March - I think I canvassed this issue when I spoke about it - an announcement was made that Sunset Hospital would close in June next year. On the very next day the Minister did what he could to allay fears in that regard. Nonetheless, it was a clumsy and ham-fisted handling of an issue which should have been sending signals to the Government to be ultracareful about a sensitive issue such as this. We were then treated to a similar exercise in caring by the Minister for Health when he announced the impending privatisation of Mt Henry Hospital in Como. He told us that the 127 beds at Mt Henry Hospital amounted to herding patients together in a central place.

Hon Peter Foss: Have you seen it? It is. That is what the situation is like.

Hon KIM CHANCE: I have been to Mt Henry Hospital, and the Minister can make his own judgments. That is not one that I would have expressed in public. Quite apart from the insensitivity, it is also quite inaccurate to imply that private nursing homes are necessarily smaller than Mt Henry Hospital with 127 beds and Sunset Hospital with 106 beds. In fact, Rowethorpe, which is a privately owned facility in Bentley quite close to Mt Henry Hospital, has about 160 beds.

Hon T.G. Butler: It would not have 160 different rooms.

Hon KIM CHANCE: I do not know that. Although I have been to Mt Henry Hospital, I have not been to Rowethorpe. We can overlook something like that. Anybody can make that sort of a mistake in the execution of a very busy portfolio. A Minister cannot be 100 per cent correct in everything. The serious matter is that there has been no consultation with the residents at Mt Henry Hospital or Sunset Hospital, or their families.

Hon Peter Foss: That is not correct.

Hon KIM CHANCE: Did anyone ask the residents whether they wanted to move to another facility?

Hon Peter Foss: What do you think has been happening for the past year at Mt Henry Hospital? In that time they have been consulted enormously. Only when your people started to ask questions and scare people did this issue arise.

Hon KIM CHANCE: It is quite inaccurate to suggest that our people - if the Minister means the SPLP or anyone else connected with the Labor Party - were the driving force behind what happened at Mt Henry Hospital.

Hon Peter Foss: You misrepresented enormously what was happening.

Hon KIM CHANCE: That was very much a matter of community outrage, and the Minister knows that.

Hon Peter Foss: It was misrepresented by your people. You said the whole place would be closed. You also said that people would be thrown out onto the streets.

Hon KIM CHANCE: I said nothing of the kind.

Hon Peter Foss: Not you. Your people.

Hon KIM CHANCE: Nor do I think the shadow Minister for Health said anything of the kind.

Hon Peter Foss: He did it this way.

The PRESIDENT: Order! The member should talk to the motion.

Hon KIM CHANCE: I would certainly say that the Australian Labor Party in its various forms reacted to community outrage about what happened at Mt Henry Hospital. In terms of whether agents provocateurs of the Australian Labor Party, whoever the Minister might think they are, engineered that community outrage, I suggest that the Minister is being just a touch paranoid. There were no consultations not only with the patients and the families but also with the staff members who have cared for those residents for years. If the Minister wants to know more about that, it is what the staff have told us.

Hon Peter Foss: That is wrong.

Hon KIM CHANCE: Perhaps the Minister should take that up with them.

Hon Peter Foss: There is no veto, which is different from consultation.

Hon KIM CHANCE: I acknowledge that.

Hon Peter Foss: They do not.

Hon KIM CHANCE: I acknowledge the point the Minister has made by way of interjection that staff, residents and families have no right of veto. What I argue is that the Minister and Government have said, "You have no choice in the matter. This is what is going to happen." Hon Norman Moore would certainly have handled this matter with the sensitivity with which he handled the concern over school closures. Had the Minister consulted in depth with residents, their families and the people who care for the residents about how they saw their future, he might have reconsidered his approach. As we have said, the Minister for Education wanted to express a view about schools that he thought were absorbing a greater share of the education dollar than perhaps was warranted, but because of the requirement for consultation being forcibly made, the Minister acknowledged that point and said that people do have to be involved in the process. I applaud the Minister's decision in that matter. I suggest that perhaps the Minister for Health ought to look closely at the way the Minister for Education handled that situation. Has the Minister considered, for example, whether there are places for Sunset and Mt Henry residents? Are the private nursing homes prepared to offer places to the range of residents currently accommodated at Sunset and Mt Henry? There are apparently few other places where they might be accommodated.

Hon Peter Foss: You know that Mt Henry is going to remain open for those people?

Hon KIM CHANCE: For nursing home places.

Hon Peter Foss: No, for those hospital patients who need extra care, not for nursing home places.

Hon KIM CHANCE: The nursing home patients are the ones who have to find alternative accommodation.

Hon Peter Foss: They do not have to find it. We have arrangements where we find it and they have a choice. The person you are relying on for your information has spoken to Dr Joyner for four hours, Mr Roselee for about two hours, me for half an hour and the commissioner for one and a half hours. Even though we told him in words of one syllable 10 times, he still went out and said, "We are going to be thrown out."

The PRESIDENT: Order! Let us get back to the debate.

Hon KIM CHANCE: Thank you, Mr President. I did promise to allow the Minister half of this hour of motion business. He has used about five minutes of it, so I might crib five of his. The point is: Are private nursing homes prepared to offer places to the range of residents that we have discussed? Do the private facilities cater for the harder cases; that is, those who are more expensive to care for? Are private nursing homes simply interested in those residents from whom they can make a profit? Is that not the very nature of any private business, laudable as it might be in the provision of many other services? I wonder if the profit motive is one which sits entirely comfortably with the care of the aged or ill?

Hon Sam Piantadosi: Mr Chance, the question should be, will the beds available outstrip the demand or the demand outstrip the beds available, because it will prove difficult for the Minister when proposing to find private accommodation.

Hon KIM CHANCE: That is a question the Minister can answer in his own time, but it is an excellent question. Some of the residents have moderate to severe psychiatric problems. It is possible to cater for those patients in the current facilities, but will it be possible for private nursing homes adequately to care for patients like that? Mt Henry is regarded as a centre of excellence for the care of the elderly. I say that not just because of the Minister's statement but in spite of the Minister's statement which at the time reflected badly on the care being provided by a dedicated staff at Mt Henry. I found it offensive, and I am sure the staff members did. Perhaps it was not intended that way. How long is it since we have seen a demonstration of 300 or 400 nurses at the door of Parliament House and how long will it be before we see it again? It was an extraordinary happening. Maybe it has happened before that a professional union of workers, such as the Australian Nursing Federation, has presented itself at the front of Parliament House to demonstrate. I do not believe it was a decision made lightly. Frankly, I was surprised when I heard they were going to do it, but that action says more to me about the way the Minister has dealt with hospital staff generally and registered nurses in particular.

Hon Barry House: It might have something to do with the political agenda of the ANF.

Hon KIM CHANCE: I do not know what the political agenda of the ANF is.

Hon Peter Foss: The secretary comes up for election this year.

Hon KIM CHANCE: Historically the ANF has been a moderate, even conservative, union and while it has become more professional in recent years -

Hon Peter Foss: Some of its members are card carrying members of your party.

Hon KIM CHANCE: Some are card carrying members of the Minister's party.

Hon Peter Foss: None of the officials is.

Several members interjected.

The PRESIDENT: Order! I ask the member to address his comments to the Chair.

Hon KIM CHANCE: Thank you, Mr President. Mt Henry has provided a wealth of experience that has enabled the private nursing homes to draw on that experience and to improve the services that they provide. I am not at all certain how many nursing homes can cope with patients who have debilitating mental and psychological conditions, such as those found amongst patients both at Mt Henry and Sunset. However, I suggest there are very few that can, and taken collectively the total number of patients of that type who can be catered for is less than the demand. There are already examples of elderly people being declined admission to private facilities because of particular medical or nursing problems. I wonder what is their future with the restrictions that are planned at Mt Henry and the closure of Sunset. The Minister's defence in this matter has been abysmal. Through a spokesman he said that the decision to privatise hospitals was made by the previous Labor Government. This has become the sort of cure-all defence by Ministers. It is one thing to blame the previous Labor Government for its actions, but at least those actions are out in the open and measurable. When we start blaming the previous Labor Government for decisions it made but did not execute, we are treading in a different world.

Hon Peter Foss: It did do it, but it did not tell anybody.

Hon KIM CHANCE: It is interesting that that is the same defence the Minister used when first challenged on the downgrading of theatre facilities at Kellerberrin hospital. He said it was a decision made by the previous Labor Government. It was a defence used with about the same degree of credibility.

With respect to the Kellerberrin Hospital, the so-called decision by the former Labor Government turned out to be a vague reference in an obscure non-government committee and was published only in a largely unread house journal of the central wheatbelt health region. Yet according to the Minister it was a decision made by the former Government. The transfer of facilities did not happen; but what led to the transfer of the regional role delineation of the theatre in Merredin was that the surgeon moved there.

Hon Peter Foss: No, he moved because of the decision.

Hon KIM CHANCE: I put that question to the doctor involved and he said it was nonsense. I do not know what information the Minister's spokesperson used to qualify this extraordinary claim with respect to privatising Sunset and Mt Henry. However, I have asked my colleagues about it and they assured me no such decision was made by a former Labor Cabinet.

Hon Peter Foss interjected.

Hon KIM CHANCE: The proof is obvious enough. Both hospitals were still open until this Government arrived. No announcements of privatisation of either hospital was ever made by the previous Government. To all intents and purposes closure was never an issue. Even if it had been an issue, what on earth would be the relevance of that issue today? The Minister is in Government; he makes his own decisions. Unless he is legally or morally bound by a former Government commitment he is responsible for what he does. Whether he thinks the decisions of the former Government were good or bad, is largely irrelevant.

Hon Peter Foss: That shows how hypocritical you are.

Hon KIM CHANCE: I have denied it happened. However, even if it did happen, what relevance does that have today? The Minister makes his own decisions. If he thinks a good decision was made and he is prepared to make the same decision, he wears that on his own.

Hon Peter Foss: You cannot get away from the hypocrisy of your behaviour.

Hon KIM CHANCE: I cannot see that and it is neither relevant nor accurate. The Minister has been presented with a set of reasons - some good and some not so good - for making changes in nursing home care in Western Australia. The Minister might have handled the situation in a number of ways. I believe he has chosen all the wrong ones. He did not adequately consult - certainly not to the expectations of those people he should have consulted. He committed himself to a course without considering where, or even whether, the residents could be accommodated alternatively. He told people via the media what would happen to them without even asking what they wanted.

Hon Peter Foss: That is nonsense.

Hon KIM CHANCE: It is not nonsense. He met criticism with nothing but denial and buck passing. He has not been able to show that a better alternative exists for people in these hospitals, some of whom need 24 hour nursing. We all accept that changes do, and sometimes must, occur. Some of us may resist change more than others, but that is only a matter of degree. We have seen here a clumsy mishandling of that most sensitive of issues, the care of the aged and infirm in our community. We have seen the worst combination of the arrogance of power and the preoccupation with money.

The value of the real estate of Sunset Hospital must be regarded as one of the reasons for its demise. I do not know how one estimates the value of that land. I have seen it variously estimated from \$10m to \$20m, to a rather optimistic \$80m. Even using the lowest of those figures it is a powerful incentive for the Government to do something

with that land. Even if it were necessary to close down Sunset because its facilities are now below what is expected for a nursing home in the latter twentieth century, could we not look at applying the value of that land for the construction of more appropriate facilities? We should at least canvass options like that rather than handing it all over to the private sector. Of course we must do what we can to use public money effectively. We must get the best results from it because that is the task the taxpayers entrust us with. If we can do that and provide better facilities we might reach a desirable objective. Even then it would be only an objective. The Government's mistake has been to try to bully people to achieve its own way. In so doing, it has overlooked not only people's feelings, but also important aspects of aged care facilities in Western Australia.

Mr McCarrey and his associates may well be talented in their field but they are not, nor do they pretend to be, experts in the care of the aged and the infirm. They have suggested a course to follow on purely financial grounds. Their recommendation should be judged only on financial grounds. Even Mr McCarrey acknowledged the difficulties that would be faced in achieving those aims. It falls to the Minister, using all the advice available to him, to decide whether, or how, those recommendations might be achieved. We hope that in making his decisions the Minister will consider the rights and desires of people. I believe the Minister has failed to do that adequately; he has let down the residents of Sunset and Mt Henry, just as he has failed to consider their families and those who care for them.

The decision to finalise the State's involvement in Sunset and Mt Henry, or for that matter Hawthorn or any other hospital, should be suspended at the very least until the Government is able to show beyond doubt that all of Sunset's and Mt Henry's residents can be properly accommodated and that their needs can be met. Most of all, the Government must be able to show that the residents and their families want the move and that they are not being forced to move because this is the only option they have left. The Minister's disparaging remarks about the quality of care provided at Mt Henry and Sunset have hurt and angered people who have devoted their lives to working with the residents. If the Minister wants to salvage any respect at all from this he must urgently reassess his objectives and how he goes about achieving them. He must be able to show us the long term planning and the shape of that planning for the future of aged and infirm care in Western Australia. He must be able to show us where Sunset, Mt Henry and, indeed, Hawthorn patients will go and when.

HON PETER FOSS (East Metropolitan - Minister for Health) [3.08 pm]: In 1987 the current Leader of the Opposition, Ian Taylor, said that the Sunset Hospital was in a critical state of disrepair and is totally inadequate as a facility for aged people. He said it was vital that redevelopment proceed as soon as practicable.

There is no doubt that as facilities for people who are merely old as opposed to people needing hospital care, Sunset and Mt Henry are quite inadequate. They do not meet the Commonwealth outcome standards required of a private nursing home. In fact, if as nursing homes they were being run by the private sector they would be closed. According to a survey of Mt Henry Hospital as a nursing home, it does not meet most of the standards; it meets seven standards, some it hardly meets and others it does not meet even slightly. The way we look after people in the country is poor but in Mt Henry people are in four-bed wards; they have no privacy whatsoever; the only partitioning they have is a curtain which is not pulled. As one walks along the corridor the elderly people can be seen in their beds. All they can fit into their accommodation is a small wardrobe, about 20 cm wide. Their whole life's possessions must fit in that. They have a drawer, but there is no place for nicknacks, pictures or mementos. There is nothing there that people in the last years of their lives should be asked to put up with.

Hon T.G. Butler interjected.

The PRESIDENT: Order!

Hon PETER FOSS: The Government hopes to place a large number of people from the Mt Henry Hospital at a nursing home at Amaroo. The Government knows it can place those people there because it is helping to fund Amaroo. That is one of the reasons for its

funding. The Government knows what the nursing home will look like, and the first priority is for those patients.

Hon Sam Piantadosi interjected.

Hon PETER FOSS: It is a non-government nursing home.

Hon Sam Piantadosi: One of your mates?

Hon PETER FOSS: No, it is not one of our mates; it is run by a delightful community organisation. If Hon Sam Piantadosi wants to see how aged people should be looked after, he should visit Amaroo. Each resident at Amaroo will have his or her own room. It will be a delightful room. The residents will have an easychair and their personal possessions around them. They will share a toilet with one person instead of 20, as is the case at Mt Henry. The residents will have their privacy; their own door, nice lounges, and pleasant recreation areas.

Hon Kim Chance: How many beds will be available?

Hon PETER FOSS: There are 40 beds.

Hon T.G. Butler: How many rooms?

Hon PETER FOSS: Forty, of course.

Hon Kim Chance: There are 40 vacant beds?

Hon PETER FOSS: When it is built there will be 40 vacant beds. Members opposite really should learn what this is all about. When these people are given those facilities they will believe they are in heaven compared with what they had at Mt Henry.

Hon Kim Chance: When they are built.

Hon PETER FOSS: I am not blaming anybody; Mt Henry cannot be changed at the moment because that is the way it is. However, there is no necessity or possible excuse for allowing people to continue to live in those circumstances when they could be changed.

The former Government identified in 1987 that the situation at Sunset Hospital was inadequate. It said that Sunset was in a critical state of disrepair, that it was totally inadequate as a facility for aged people, and that it was vital that the development proceeded as soon as possible. However, it did nothing.

Hon Kim Chance: I acknowledge that that might be the case.

Hon PETER FOSS: The former Government knew seven years ago that Sunset was totally inadequate for accommodating elderly people but, as Hon Kim Chance has said, it did nothing.

Hon Kim Chance: I didn't say that.

Hon PETER FOSS: Hon Kim Chance says that his Government made decisions but did not carry them out.

Hon Kim Chance: You are putting words in my mouth.

Hon PETER FOSS: The Labor Government was aware seven years ago that Sunset was inadequate but it did nothing.

Hon Kim Chance: Are you saying we never spent any money on Sunset to upgrade it?

Hon PETER FOSS: The former Government did nothing to change that. The quality of that statement is correct to this day.

Hon Kim Chance: Rubbish.

Hon PETER FOSS: A letter from Hon Keith Wilson, a former Labor Minister for Health, to Hon Peter Staples, the Federal Minister for Aged, Family and Health Services, states -

The Western Australian Government has traditionally been an important provider of aged care nursing home beds in Perth.

However the State has recognised for some time now that there was a need to re-think its role as a nursing home provider in metropolitan Perth.

Typically the government nursing homes in Perth are large, of older construction and are located in areas which have become relatively well catered for in relation to their aged person population.

In the light of the above factors, and because of the significant and progressive improvements which have occurred in the quality of non-government nursing home services in relatively recent years, there is not now the same necessity for the State Government to maintain its role as a major provider of nursing home services in the metropolitan area.

The State Government believes that the appropriate course of action is to progressively transfer its metropolitan nursing home services to the non-government sector over the next four to five years. This will be done at the same time as action is undertaken to bring the operating costs of government nursing homes into line with those of the non-government and private sectors.

However, while these are the firm intentions of the State Government, there are a number of practical impediments which will need to be worked through before this plan of action can be put fully into effect, namely; . . .

Hon Kim Chance: What was the date of the letter?

Hon PETER FOSS: The letter was dated 18 September 1992.

Hon Kim Chance: Keith Wilson wasn't the Minister for Health then.

Hon PETER FOSS: He signs himself as the Minister for Health; he thought he was. The letter continues -

The need to re-locate many of the government nursing home beds to areas in Perth where there is a shortfall of beds.

That is quite true. One of the problems in Perth is that there is a huge number of nursing home places in the centre of the metropolitan area, as with hospitals, and the only way to move those is to close the nursing home beds which are currently funded by the Commonwealth and transfer them to the private sector. The only reason Amaroo can do that is that the Government will close beds and transfer them to Amaroo. The result is that instead of patients being in four bed wards, as is the case at Mt Henry, they will have their own room and will share an ensuite with one person, with all the other facilities that will go with it.

Amaroo includes an Alzheimer's facility, which I think is fantastic. It is beautiful to look at. Each room has its own coloured door so that the elderly people may have a chance of recognising their room. Each room also has a little "shrine" in the wall - two shelves covered by glass - for patients to store their personal mementos, which also helps them to find their own room. There is a lovely lounge area and also a walk track. Mt Henry has only just built a walk track so one could not say that Mt Henry brilliantly provides for Alzheimer's patients. I have seen considerably better facilities throughout the State than those at Mt Henry Hospital. Hospitals with Alzheimer's patients must have a circular track which winds in and out so that the patients do not know they are not getting anywhere. People with Alzheimer's disease have a great need to walk, especially at full moon. As a result of those facilities the patients at Amaroo are the most content I have ever seen. Their surroundings are wonderful, and the care given by staff at Amaroo is superb. Amaroo is fantastic because it is a new facility. It meets the Commonwealth standards and it is designed to look after these people. I have seen the plans for the new Amaroo nursing home and they are wonderful. I have no idea how anyone could possibly want elderly people to live out the last days of their lives in four bed wards, with no privacy and no personal mementos, when they could be in a place such as Amaroo.

Hon Kim Chance: I don't think it is a matter of dispute, Minister.

Hon PETER FOSS: Unless the Government closes beds in Mt Henry Hospital it cannot

open beds in Amaroo or any other hospital. That is the way the deal works; it is the essential part of the process. More importantly, the Government will move those beds to areas where they are needed. At the moment people are being brought together in the one place at Mt Henry. There is an excess of beds in that central part of Perth. Better quality beds and quality care is required. Amaroo is a wonderful setting. It would not, though, be able to look after people who need hospital care. However, the important factor to remember is that hospital care is expensive care, but it is often inappropriate care. Imagine a visitor to Perth saying that he wanted to stay at a five star hotel with all the comforts, but he was then given accommodation in Royal Perth Hospital. He would say, "Hang on, this is a hospital. I don't want to be in a four bed ward." It costs just as much to stay there as in a five star hotel, but it is no answer to say that it costs just as much.

Hon Kim Chance: I don't believe we did say that. You are developing a wonderful argument, but it is not one that we made.

Hon PETER FOSS: That is the sort of argument that is being raised in support of Mt Henry. It has been said that it provides a lot of wonderful hospital care. However, people do not necessarily want hospital care. Many of those people are just old, and they are the people the Government wants to move. There has never been any suggestion that the Government will move people who need extra nursing care.

Hon Kim Chance: McCarrey was clear that those patients who did not need expensive care were not getting the expensive care.

Hon PETER FOSS: The unfortunate thing about this matter is that they are getting that care. When I visited Mt Henry I asked why the people were in a four bed ward when they were merely old, not sick. The answer was because it had so many nurses and such a staff to patient ratio. We have not changed the ratios of staff to patients, or nurses to non-nurses. It is a highly expensive system and they put people together in wards because it must be a nurses' solution since it has a nursing type financial underlay. The Government could not afford to provide that sort of expensive care to those people if they were in single rooms. That is the ludicrous situation we are in. The reason people are not provided with proper care is that the care is so expensive that the Government could not afford to provide it on an individual basis. The answer is to get people into an appropriate level of care and then more services can be provided.

Hon Kim Chance: Do you believe that you have gone the right way about that? Perhaps you should have told these people about the planning.

Hon PETER FOSS: We have been doing that. The member says there has been no consultation, but constant consultation has taken place. Every person or the family of every person has been consulted about the process. However, 11 people refused to take part. One can go only so far in consultation, and one cannot talk to people who will not consult. A number of people have already left the hospital: Twenty have moved, two of whom went home and the rest were placed with our help; and 20 people have died. The number has decreased by 40. We have been consulting people and, until the rumours started that the Government would close the whole hospital and people would be thrown out with nowhere to go, the process was proceeding very well. It was never the case that the hospital would close and people would be thrown out, and it was never explained in that way.

People have become upset, and members will have seen the documents relating to that. The shadow Minister for Health demanded that I give an assurance that people would not be thrown out. The clear information throughout the whole period of consultation was that the Government would find places for them. It would provide the names of three places which they could look at and choose from. We went through the options carefully and we wanted those people to choose their own homes, but said that we would arrange for the accommodation. The department would keep an eye on the waiting lists and arrange for the accommodation of their choice to be provided as it became available. The department can arrange for admissions when perhaps other people are not able to do so. That consultation worked brilliantly until somebody started the rumour that the patients

had to find their own places and would be thrown out if they could not do so. That was the cause of the problem. The process had been under way for a year without anybody becoming upset prior to that rumour. The staff had been consulted, social workers were arranging matters, and everything was going smoothly. The member knows what happens when rumours get around - all sorts of wild things happen. The man referred to has spoken to Dr Joyner for four hours, Ms Roseveare for two hours, me for half an hour, and the commissioner for another hour and a half. Everything was fully explained to him. He was told that nobody had to find a place; that we would find a place and he could choose which place to go to; and that people who should not be moved for medical reasons, would not be moved. After all those things were explained, the next day he said that people would be thrown on the streets.

Hon Kim Chance: Perhaps you did not convince him.

Hon PETER FOSS: How long does one consult for? He had four hours with the regional manager, two hours with the manager of Mt Henry, half an hour with me and an hour and a half with the commissioner.

Hon Kim Chance: That is all after the event.

Hon PETER FOSS: No, that consultation took place beforehand, and this is after the rumour started. I do not know where the rumours came from, but I know the shadow Minister did not help by insisting on this undertaking, which was not necessary. Having stirred this up, it started the Sunset Hospital people going because, as the previous Labor Government had said, it was decided to deal with all of them. The member suggests that the reason for the closure is the McCarrey report and money. McCarrey has nothing to do with it. The member knows of my concern for aged people, and he knows of my efforts for aged country people. I believe those people are better off in many ways than people at Mt Henry. I am not criticising Mt Henry staff, but that is the case.

Hon Kim Chance: Undoubtedly.

Hon PETER FOSS: The acute hospital beds for people in the country are far better than those at Mt Henry. I am trying to do the same thing in the city. If that money were released, I would have twice as much to spend on aged people. At the moment I am spending twice as much as the SAM and CAM status allows, and we are providing a standard that would not be allowed by the Commonwealth Government. That is crazy. I would have twice as much money to spend on aged people and would be providing a better standard of care. New nursing homes are much better than the old ones that people remember.

Hon Kim Chance: I am glad the Minister used the word new.

Hon PETER FOSS: I agree that the standards vary. We tell people to pick the nursing home they want and that we will arrange the accommodation for them. For example, 40 places will be available at Amaroo.

Hon Kim Chance: My reservation is that I do not believe they are available.

Hon PETER FOSS: It is a chicken and egg situation; until an undertaking is given to close the beds, new beds cannot be provided. I am providing \$1m to Amaroo. If we released this money, it could be used to do something worth while. The letter to Mr Staples refers to the need to find substantial capital. That is difficult, although there are people able to do it and we can also help. The letter states regarding Sunset -

Given the position of the land overlooking the Swan River foreshore and previous unsuccessful attempts to realise on 'A' class reserve land, the prospect of this occurring is virtually nil. Community opinion and expectations will almost certainly come down on the side of retaining the land for public recreational space.

It continues -

Hence, there are significant financial and organisational impediments to the State Government independently upgrading and re-locating State Government nursing home beds in the metropolitan area.

That is quite true.

Hon Kim Chance: What is your view of the future of Sunset?

Hon PETER FOSS: I would like to think we can realise some capital because there is a need for it, but it is not the motivating force. Those facilities are absolutely inadequate.

It was said that some of the residents know only the people in the hospital and it is their home. Of course, we agree with that. However, their home is made up of the people in the hospital, and we are happy to transfer them as a group so that they take their family with them. Amaroo is a classic example of places to which we can move 10 people at a time to keep them together.

Hon Sam Piantadosi: Is that a cluster complex?

Hon PETER FOSS: I will table the plans of that complex and members can make up their own minds about the facility. I seek leave to table the document because it gives an idea of what a modern facility looks like.

Leave granted. [See paper No 1236.]

Hon PETER FOSS: The member said the transfer is likely to affect the health and wellbeing of residents. I believe that everyone transferred will welcome that transfer. When we show people these new facilities, they will not want to stay in the old place. That has happened with the people we have transferred so far. There is some fear, but much of that fear is created by rumour and false information. The biggest disservice to the people in Mt Henry has been the rumour mill. I have taken further action to go through the whole process again to reassure people. It is very hard to deny a rumour because people do not believe what is said, but I am trying to make the information quite clear.

The member asked whether it was impossible to find places for certain types of patients. At the moment it is, although theoretically it need not be. If there is no place for any resident, that person will not be moved. At Mt Henry, once we move out the nursing home patients, we can provide a better facility for people who cannot go into nursing homes. But the whole basis of our intentions with Mt Henry is that we only want to transfer people who should be in nursing homes. If they should be in nursing homes, they should not be in Mt Henry. That is what we seek to do. I admit there is a problem with Sunset. I was very annoyed about what happened because I had said that nothing should be done until there was an HR plan, a patient plan, and a plan to explain everything. I said that nothing was to be done.

[Debate adjourned, pursuant to Standing Order No 195.]

JOINT STANDING COMMITTEE ON DELEGATED LEGISLATION

Members for Roe and Perth, Discharged; Swan Hills and Northern Rivers, Appointment

Message from the Assembly received and read acquainting the Council that it had agreed to the following resolution -

That the members for Roe and Perth be discharged from the Joint Standing Committee on Delegated Legislation and the members for Swan Hills and Northern Rivers be appointed in their place.

ACTS AMENDMENT (OFFICIAL CORRUPTION COMMISSION) BILL

Second Reading

Debate resumed from 30 November 1993.

HON A.J.G. MacTIERNAN (East Metropolitan) [3.31 pm]: The Opposition supports the Bill in principle as it will enhance the operations of the Official Corruption Commission. We acknowledge and accept the findings of the Select Committee on the Official Corruption Commission Act in May 1992 that the Official Corruption Commission plays a useful role in the investigation of official corruption in this State. In

his second reading speech the Minister set out the nature of the enhancement of the operations of the Official Corruption Commission and its dealings, and the protection of those providing information to the commission, so it is not necessary for me to enlarge on those here.

I will focus on the Opposition's concerns, which are not so much about the legislation but its content.

Hon Peter Foss: Have you seen the suggested amendments?

Hon A.J.G. MacTIERNAN: No.

Hon Peter Foss: They are the amendments that address matters raised in the other place.

Hon A.J.G. MacTIERNAN: We are not aware of them. I ask that this matter be deferred until after the tea break. We do not have any copies of the amendments yet.

Hon Peter Foss: Perhaps if you continue to speak -

The DEPUTY PRESIDENT (Hon Barry House): We are not dealing with the amendments. This is the second reading debate.

Hon A.J.G. MacTIERNAN: The very nature of the amendments could affect the concerns we have about this Bill; much of the matters we will deal with in the second reading debate perhaps could be dealt with by the amendments.

Hon Peter Foss: If you put your concerns on the record it will make more logic when we reach the amendments.

Hon A.J.G. MacTIERNAN: We do not have any difficulty with placing our concerns on the record. We should have had more than minus four minutes notice before commencing debate.

Hon Peter Foss: Speak about the Bill as it stands.

Hon A.J.G. MacTIERNAN: If the Minister believes this parliamentary process has any relevance -

Hon Peter Foss: How often do you give notice of your amendments?

Hon A.J.G. MacTIERNAN: The Minister represents the Government, and he has far greater resources than the Opposition has.

Hon Peter Foss: That has nothing to do with it.

Hon A.J.G. MacTIERNAN: It has everything to do with it.

The DEPUTY PRESIDENT: Order! Let us proceed with debate.

Hon A.J.G. MacTIERNAN: This places us in an embarrassing situation. We are not so sure whether the comments we will make on the contents of the legislation have been addressed by the amendments.

Hon Peter Foss: It does not matter. You will comment on the Bill as it stands, and we will respond with our amendments.

Hon A.J.G. MacTIERNAN: People who take the work of the House seriously do not want to spend hours preparing their arguments only to find there is no issue remaining.

Hon Tom Stephens: The Minister will be pleased to know that the complaints he is making were the subject of hours of similar complaint when he was in Opposition.

Hon Peter Foss: Never!

The DEPUTY PRESIDENT: Order! It bears repeating that the second reading debate is all about the principles contained in the Bill. That is what we should be debating.

Hon A.J.G. MacTIERNAN: We understand that, Mr Deputy President, but the point is that the principles contained in the Bill can be altered by the text of the Bill. We are not in a position to judge whether the principles of the Bill have fundamentally been changed by the amendments now placed before us.

Hon Peter Foss: They have not been put before you. The Bill is unamended. Talk on the Bill as it is currently. That is what you are meant to do. It is not the intention that you talk about the amendments.

Hon A.J.G. MacTIERNAN: I will go through the *Hansard* where the Minister has taken the opposite view when he was in the role in which I now find myself. It is very inconsiderate of him to put us into this situation. However, we will progress. It is difficult to judge the worth of the Bill without knowing whether our concerns have been addressed.

Our concerns are essentially twofold: Firstly, the Government's commitment to establish a standing committee to oversee the Official Corruption Commission; secondly, the Government's misleading statements that the Government has already reviewed the Bill in the light of the Royal Commission into Commercial Activities of Government and Other Matters recommendations on the Official Corruption Commission. I will discuss the major differences between the royal commission's recommendations and those contained in the Bill and make comment on the future action that seems necessary.

Firstly, the select committee that reported in May 1992 recommended the establishment of a parliamentary standing committee. A number of submissions, including those of the Official Corruption Commission itself, recommended that a standing parliamentary committee should be established to monitor the commission. This requirement stems from the fundamental notions of accountability and parliamentary sovereignty. Government agencies by their nature are unelected and cannot operate without fetter in a democracy. The mechanism for accountability of such organisations is obviously through accountability to the democratically elected Parliament. Obviously we would be happier if we actually had a democratically elected Parliament, but we will have to make do here with this somewhat imperfect body. Further, if the Official Corruption Commission is to do its job it must be answerable to Parliament and not to the Executive. The establishment of such a parliamentary committee provides the mechanism for such reportage.

It was also noted by the select committee that both the New South Wales Independent Commission Against Corruption and the Criminal Justice Commission in Queensland reported through parliamentary committees. *Hansard* reveals that the investigations of the select committee showed that this was a critically important part of the system in both those jurisdictions, and our parliamentary colleagues in New South Wales and Queensland all emphasised the importance of this overseeing role in the operation of their anticorruption bodies. It is quite beyond doubt that central to the recommendations of the May 1992 select committee, which advocated an expansion of the powers and role of the Official Corruption Committee, was the establishment of a parliamentary select committee to oversee the operation of that now expanded body. However, it is clear from *Hansard* that the Attorney General has no intention of establishing such a committee. Questioned on this matter the Attorney General disingenuously said those decisions would be made by Parliament and she would not like to preempt the Parliament. She refused to answer a question on whether she would move to establish the joint select committee. As has been pointed out time and time again, it is the height of sophistry for the Government, which has the numbers in both Houses of Parliament, to pretend that it does not have within its powers the power to move for the formation of such a joint select committee and, more importantly, the power to ensure that such a select committee is put in place. The Deputy Leader of the coalition Government was somewhat less dishonest in that he allowed himself to be goaded into saying in the course of debate in another place that he was not sure that this was the way to go. This is a curious situation because the Deputy Premier was a member of that select committee and was one of the signatories to the report of that committee and one who would have supported the recommendations made by that committee. Of course, this raises concerns about the judgment and the reliability of the Deputy Premier, but the whole affair raises even greater concerns about the integrity and honesty of the Government and particularly of the Attorney General.

The second issue is that the Government quite extraordinarily claims in its second

reading speech that it has reviewed the select committee's findings in the light of the critique contained in the royal commission's report and implied it has made some amendments to the committee's draft as a result of that review. The Opposition can see no evidence that this has occurred, and if it has, what is the point of the reference of this whole matter to the Commission on Government?

In passing, we note that the only change of any substance between this Bill and that drafted by the second select committee is that the schedule of offences contained in the Bill before us omits one of the offences contained within the draft Bill. The offences form part of the definition of corrupt conduct and by the listing of the various sections of the Criminal Code any offences committed by a specified class of persons then become matters of corruption which then can be investigated by the Official Corruption Commission. Section 390A of the Criminal Code has been excluded. This is notwithstanding that, when the Attorney was asked directly if there were any changes within the schedule she made a statement that they were identical. Of course, one can take a cynical view. Section 390A relates to the unlawful use of motor vehicles and it might be said that in view of some of the embarrassing revelations of the use by police officers of Government motor vehicles it might want to take this out of the purview of the Official Corruption Commission. Perhaps there is an alternative explanation. We would not be seeking to believe that the Attorney General has deliberately misled Parliament. We are prepared to entertain this time that it has been a simple omission.

[Continued below.]

Sitting suspended from 3.45 to 4.00 pm

STATEMENT - PRESIDENT

Press Gallery at Parliament House, New System

THE PRESIDENT (Hon Clive Griffiths): Following a meeting of the committee which considers matters relating to the operation of the Press Gallery at Parliament House, the Presiding Officers, the Hon Clive Griffiths MLC, President of the Legislative Council, and the Hon Jim Clarko MLA, Speaker of the Legislative Assembly, have decided that no longer will the various media groups which attend Parliament House have a set upper limit on the number of journalists who can be accredited to the Press Gallery. The previous limit, which had been in place for several years as a result of media pressure, has been abolished following a recommendation from the president of the Press Gallery, who attended the meeting. The Presiding Officers have no wish to restrict the number of journalists entitled to use the Press Gallery if there are no problems of overcrowding. In addition, it has been decided that on those days when the Press Gallery is full, such as the opening of Parliament and when contentious matters are being debated, the Press Gallery area will be extended to accommodate those extra journalists. The matter of accreditation of journalists to the Press Gallery has been under review ever since the question of limitation on numbers was raised last year. It will be interesting to observe how the new system will operate.

ACTS AMENDMENT (OFFICIAL CORRUPTION COMMISSION) BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON A.J.G. MacTIERNAN (East Metropolitan) [4.04 pm]: Prior to the suspension, I was about to examine the recommendations of the royal commission in relation to the Official Corruption Commission and the way in which the royal commission's comments differ from those of the select committee. The royal commission took the view that the Official Corruption Commission primarily operated as a postbox for complaints and had little power of its own to investigate those complaints. It is important to understand that those comments were made in the light of the changes that had been recommended by the select committee. They were not comments which were made before the select committee reported or in ignorance of the select committee's report.

I will refer to the comments that were made by the royal commissioners in this regard, because they are germane to the Bill. The Bill before us is essentially the same Bill that the commissioners considered and which is entitled in this extract as the draft Bill. I will give an overview of what the commission believed was the problem. It stated -

As the Select Committee noted in its report, the function of the OCC is limited to receiving complaints of "official corruption" as defined, narrowly, in the Act. Furthermore, secrecy provisions (in the absence of any whistleblower's legislation) currently prevents public servants from disclosing information which may form the basis of a complaint to the OCC. In other respects, the powers of the OCC to initiate or pursue an investigation are limited by the part-time nature of its members and its lack of an administrative or investigative staff.

It is that view that led the royal commission to find that the Official Corruption Commission functions chiefly as a postbox. It went on to examine what the effect of the draft Bill was. It stated further -

The draft Bill presented by the Select Committee in its September 1992 report would seek, but only in a limited way, to ameliorate these problems. The functions of the OCC would remain defined by relevant provisions of the Criminal Code. The OCC would receive some preliminary investigation powers which would enable it to request the supply of information to it. However, because there would not appear to be any penalty for failing to comply with such a request, this power would not be coercive. The draft Bill would require certain senior public sector employees to refer relevant information to the OCC, but only if they had grounds to suspect corrupt conduct of the type to which the Criminal Code relates. The draft Bill would not provide general whistleblower protection to persons outside the public sector . . .

I reiterate that the Bill before us is essentially the same as the draft Bill. The report went on to say -

The draft Bill is narrow in its scope and effect. Whilst it may be considered a step in the right direction, it is but a very tentative one. As we have said, the proposed Commissioner should possess wider powers, enabling him or her to deal not only with narrowly defined official corruption, but also with improper conduct by public officials. The proposed Commissioner should also be concerned with preventive and educative measures designed to combat corrupt and improper conduct. In other words, the body we propose has a significantly broader function than the existing OCC. The office should become one of the primary independent parliamentary agencies in the State.

Those comments were made by the royal commissioners after they had shown the substance of the matters set out in the Bill before us. To highlight areas of difference between the royal commission recommendations and those contained within this Bill, the first thing to note is that the royal commission advocated the abolition of the Official Corruption Commission and its replacement with a commissioner for investigating corrupt and improper conduct. This body's definition of corrupt would be considerably wider than that contained within the Bill that is before us and which will govern the Official Corruption Commission. It includes a far wider range of offences under the Criminal Code. For example, whole chapters of offences relate to stealing and matters ancillary to stealing which are included in the royal commission's recommendations, but are not covered at all by this Bill. Further differences between the two bodies are that the royal commission as a body would not be limited to the examination of this narrowly defined corrupt conduct but would extend to a broader notion of improper conduct.

This improper conduct is designed quite broadly and it must be very seriously considered whether such a body needs to have the power to view matters of this breadth. The Government's attitude in the Commission on Government Bill seeks to create a great deal of limitation on the operational terms of reference dealt with by the Commission on Government and tries to limit those matters to corruption. Here we have a contrast between the recommendation of the royal commission that improper conduct should

quite properly be in the purview of a corruption watchdog, which should not simply be limited to corruption. The body proposed by the royal commission would have an educative and preventive role, and it was seen as quite important that it work very positively with the public sector, the Public Service and various Government agencies to ensure that higher standards required were fully appreciated by public servants and by any officer of the Crown, or anyone whose conduct comes within the purview of that body.

That has been done by the Independent Commission Against Corruption. This has been a very important part and in some ways the most positive part of ICAC's functions. I quote a small section from *The Bulletin* where it reviews Ian Temby's performance as the head of ICAC within New South Wales. It states -

Temby and the commission have stressed the need for public education and corruption prevention. ICAC officers have now visited about 90 per cent of the State and, on three separate trips since March, called on 23 towns, 33 high schools and staged four public meetings.

A recent survey of NSW public servants found that 43 per cent condemned the bypassing of the tendering process to award a reputable company a computer contract. Two-thirds thought that appointing a colleague to a job without advertising it or using one's position to help a friend to get a job was corrupt.

The article continues to discuss the various people who have praised the work that has been done by ICAC in education and in preventing acts of conduct that were either corrupt or improper.

The Opposition believes that one of the very great shortcomings in the legislation is that there is no scope for such a role and that we need a different sort of organisation to perform that role. Such an organisation is needed to enable us to be able to discharge that important educative function. The other important area of difference - not just simply between the draft Bill and the royal commission's recommendations but also between the Bill that we have before us, and note the Opposition has not had the benefit of seeing whether this is changed with the amendments that have been presented - is the power of the commission. The body proposed by the royal commission would have much wider investigative powers than the Official Corruption Commission even with the expansion of powers that are contained within this Bill. The body proposed by the royal commission could order the production of documents, compel the production of statements from any person in the public sector, and compel a person to attend a hearing and give evidence under oath. These are all areas of important consideration and areas of fundamental difference between the nature of the body contemplated in this Bill and the nature of the body recommended by the royal commission.

Having conducted such an examination, it is clear that no significant changes have been made between the draft Bill and the Bill before us. Certainly, no changes have been made in the royal commission's recommendations. We conclude that if the Government has reviewed the draft Bill of the select committee in the light of those royal commission recommendations, then the result of that review has been to completely discard and ignore the royal commission's recommendations to establish a more powerful corruption base. No account has been given as to why the Government has decided to ignore those recommendations. The recommendations are not peripheral to the purposes of the royal commission, are not incidental matters that the royal commission dealt with, but are recommendations that go to the very heart of the purpose of the commission. The commission's work aims at ensuring the prudent and honest conduct of Government business.

The Opposition is not arguing that the Government has to slavishly follow the royal commission's recommendations. However, it is saying that they are very important recommendations and they cannot be so cavalierly put aside without a degree of public debate and consideration and explanation by the Parliament. The Opposition believes that there is a need to seriously and publicly debate and consider the proposals of the royal commission for a more powerful watchdog. It is a critical factor in ensuring that

we have open and honest government in this State. The Opposition challenges the Government to commence that debate.

To recap on the Opposition's position: It supports the extension of the Official Corruption Commission Bill, but its support is predicated on the formation of a parliamentary standing committee to oversee this expanded body. The Opposition's support for this Bill does not in any way imply that it rejects the recommendations for the formation of an organisation with more power to stamp out corruption through not only greater power, but also through a wide educative role. If the Government fails in its obligation to progress these matters, to debate this issue and give an account to the public of why it has decided not to follow the royal commission's recommendations, it should be assured that the Opposition will not. The Opposition will endeavour to ensure the people of this State get the best level of protection against corruption that is compatible with effective and efficient government.

[Leave granted for speech to be continued.]

Debate thus adjourned.

[Continued on p 11485.]

ADOPTION BILL (No 2)

Second Reading

Debate resumed from 5 April.

HON CHERYL DAVENPORT (South Metropolitan) [4.23 pm]: The Opposition supports this Bill, but it will probably move several amendments to it during the Committee stage. I feel very privileged this afternoon to be the Opposition lead speaker. The Bill has been a long time in coming to the Parliament. It is a complete overhaul of the Adoption of Children Act 1896, and I hope I can do it justice.

Hon E.J. Charlton: I'm sure you will.

Hon CHERYL DAVENPORT: I thank the Minister for his confidence.

The Bill has had a long gestation period of 11 years. At this point I will pay tribute to my former colleague, Jackie Watkins, the former member for Wanneroo. In her maiden speech in 1983 she shared her past with the members of the Legislative Assembly by referring to the plight of relinquishing mothers in our community. It took a lot of courage on her part and as I lived and worked in the northern suburbs at that time I know she came in for some offensive treatment for what she did which, in her view, was to help women who, over the years, had chosen to give up a child for adoption. As a consequence of Jackie's remarks the Legislative Assembly established a select committee in 1983 and it brought forward a number of recommendations which led to the Adoption of Children Act being amended in 1985.

I also pay tribute to many of the groups which have worked closely with the former Government and, to a lesser extent, with the present Government on this legislation. I refer particularly to Adoption Jigsaw WA Inc and to Ms Glenys Dees who has been associated with that organisation for many years. As late as this afternoon I spoke with Ms Dees about the three clauses which are of grave concern to relinquishing parents and they will be the subject of Opposition amendments. I refer also to the Association of Relinquishing Mothers which was formed as a result of the initiative taken by Jackie Watkins. I speak specifically of the three women I have had contact with over the years - the original convener, Shirley Moulds; the current convener, Lindy Gattinger; and a woman who did a lot of voluntary work for the organisation, Margaret Van Boheeman.

Before I became a member of Parliament I worked for a Federal Senator and we had a lot of contact with the Association of Relinquishing Mothers. During my years of working with Senator Pat Giles I came to know that organisation very well and was very supportive of its objectives in assisting to bring this social reform legislation before the Parliament. The Legislative Assembly's select committee met in 1983-84 and its recommendations led to amendments to the Act. I think Hon Kay Hallahan was the

Minister for Community Services at that time and she appointed the Adoption Legislative Review Committee which commenced its deliberations in 1988 and completed them in 1991. By that time the member for Mitchell was the Minister for Community Services and soon after the member for Belmont assumed that portfolio.

In October 1992 the Lawrence Government, through Minister Ripper, introduced a Bill which reached the final stage of the second reading debate on the last night of the 1992 parliamentary sitting. Some criticism was made of the former Labor Government for not moving more quickly on that legislation. Nonetheless, it has reached this stage and we are now dealing with the legislation which, as I said, has had a very long gestation period. In the main, members should feel very proud of this legislation. In my research of the Bill I was pleased to find that the current Government sought to incorporate in it the majority of the 1992 Bill. I certainly congratulate the Government and the Minister for Community Development on their approach to this Bill. The members who contributed to the debate in the Legislative Assembly did a tremendous job. Members in that place have more time constraints on their speeches than we do. However, in the time allotted to members a lot of ground was covered. The three former Ministers whom I mentioned earlier and the shadow Minister for Community Development, the member for Morley, Clive Brown, did a tremendous job. The second reading debate was wide ranging and comprehensive. The Committee debate was also wide ranging, honest and open, and different ideological perspectives were expressed on a number of occasions. I learnt a lot about this legislation from reading those debates, and I hope I will do justice to the various clauses about which there is still contention. I will deal firstly with how adoption has touched upon my life and give some specific examples which relate to various clauses of the Bill. I will then foreshadow the major objections which the Opposition has to this Bill, which relate to Aboriginal and inter-country adoptions, and information vetoes, contact vetoes and lifetime vetoes. We must keep in mind when dealing with this Bill that while three different parties are involved in the adoption triangle, adoption is predominantly about the welfare and wellbeing of children. We are inclined at times to have various emotional sympathies for either side of the triangle, but children have to be our primary concern.

The Minister referred in the second reading speech to the fact that in the past, adoption was for many people a secret transaction. That secrecy provision did not come into being until after the Second World War, but it has been part of the adoption process in recent times. We are now seeking to right some of those perhaps not wrongs but certainly misconceptions which related in the main to women who had children out of wedlock and relinquished them.

I turn now to the effect upon families of adopting a child from within the family, and give the example of my mother, whose biological mother came to Western Australia from South Australia in 1913 with her brother, and they lived with their aunt in Albany. They came because they thought there would be better job opportunities in this State and that life here would have more to offer. My mother's biological mother worked as a domestic, and she became pregnant to the son of the household where she worked. She did not tell her aunt, or anyone in her aunt's family, that she was pregnant, and she gave birth to my mother without anyone knowing. The first that the family with whom she was living knew about it was when the hospital got in touch with them to let them know that she had given birth. The family then decided to take my mother as their own child.

The secrecy arose in that no-one told my mother who her mother was, and her biological mother was not allowed to acknowledge that she was her mother. My mother did not officially find out who was her mother until she went to get her birth certificate when she was in her mid-20s. I am told by my aunt, who is not actually my aunt but is a distant cousin, that when my mother was four, she was taken away for adoption by another family. She cried and cried for about a week until people realised that it could not go on any longer, and she was returned to her potential adoptive family. As a result of that, she was formally adopted but she was never told, and she did not find that out until many years down the track. My aunt has told me that about six months before my mother died, she learnt that she had been taken away at the age of four. For all of her life, she had

heard a little child crying in her mind, and she was finally able to acknowledge that that child was her. The lesson to be learnt is that difficulties in our past may affect us for all of our lives.

My mother did not want her children to know that she was adopted, and I did not find out until my son was two years old. A distant cousin, who had come to Adelaide to visit her relatives, had telephoned me several times when I was in Adelaide and very close to giving birth to my son. Two years later I found out that she was actually my biological grandmother, and that I was the oldest grandchild from her first daughter, whom she relinquished. I held on to that information for some two years before I told anyone. I did not tell my mother because I felt that because she had never told me, she did not want me to know. I told my sister, who is very different from me, and she decided to tell my mother. My mother was very angry. Although both my sister and I tried to persuade her that 60 or 65 years down the track maybe it was time for her to acknowledge that many reasons could have led to her biological mother giving her up for adoption, she never acknowledged her biological mother. In fact, her mother died at 93 only three years before my mother passed away, and I could not even persuade my mother to attend her mother's funeral.

That is just one story from the adoption triangle. It is only now that my mother's half sister has learnt that she had a half sister. Although they had known each other distantly for many years, they were never able to be close as that biological tie was not acknowledged. I recognise that the legislation deals with adoptions within families, but that is an example of how it has not worked in the past. Times have changed, and now people will probably be much more open and honest about the situation. Nevertheless, this is an area which can have many consequences for many people.

I also had close contact with the adoption triangle through my best friend when I was aged 16 years. Just after we had finished our junior certificate year I found out that she was pregnant. I found out on the grapevine; I lived in the country and distance was a problem, and we had not seen each other for some time. I was to turn 16 in the January of that year, and I wanted my friend to stay with me for that weekend. I telephoned her, but I did not let on that I knew that she was pregnant. She refused to come and stay. I did not want her to feel that we were being judgmental, and I wanted her to be very much part of my sixteenth birthday. My mother rang my friend's mother and told her that we knew that she was pregnant, and on that basis she agreed to come and stay for the weekend. She was about four months pregnant at the time. As the Minister would well know, small towns were very judgmental.

Hon E.J. Charlton: And they know everything.

Hon CHERYL DAVENPORT: Indeed. My friend was sent away from home aged 16 years, and she gave up her child. I now quote from some information I received from the Association of Relinquishing Mothers. It reads -

The hardest thing a woman will ever have to do is give up her baby. The guilt and despair is often more than she can bear. And yet, not so long ago, single mothers had little choice. Their babies were taken away for adoption. Sometimes, just before the moment of birth, a pillow would be placed in front of their face or a blanket was held up to make sure they didn't see the baby. Then their baby was whisked away. Sometimes to a different floor of the hospital. Taken away forever. Perhaps, they managed to catch a glimpse of it - a tiny, waving fist, a little tuft of hair. How do these mothers feel? How do they live with the consequences of having given up their baby?

I am glad that we do not live in a society which is as judgmental as it was in 1963 when my friend gave up her child. We have lost contact and I do not know whether she has been able to find her child; I sincerely hope she has.

When legislating we must remember that although we have great sympathy for the relinquishing mothers or the adoptive parents, the child is paramount. This gives rise to a philosophical argument which may arise in this debate. Children have rights, and adults

have rights. It is very difficult to know where those rights begin and end. In presenting this legislation the Government has attempted to adjust the balance achieved in the 1992 Bill by imposing information and contact vetoes. We must always keep in mind that the welfare and wellbeing of the child is of paramount importance.

Hon Derrick Tomlinson: What about the rights of the mother?

Hon CHERYL DAVENPORT: The future in that respect is not such a problem because the adoption plans are a very good idea. They involve mediation and counselling along the way, and many mistakes of the past will not be repeated.

Hon Derrick Tomlinson: I agree with you.

Hon CHERYL DAVENPORT: This Bill involves information, contact and even lifetime vetoes. In considering the adoptive parents' or relinquishing parents' ability to put in place such a veto - even though we are talking retrospectively - the child, who is the innocent party, is not being put first. Interestingly, this Government wishes to insert these vetoes into the Bill when the coalition has often argued against the power of the State. This Bill will put in place vetoes which are not in the best interests of the adoptive child.

Hon Derrick Tomlinson: But all that does is authorise the rights of the individual. It is not the State which imposes the veto. The individual imposes the veto. The State authorises it.

Hon CHERYL DAVENPORT: It is imposed by the relinquishing parent or the adoptive parent at the expense of the child. Under the basic principles of human rights, in my view, everybody has a right to know where they come from. Even though there is a provision in this Bill for a message box, there is real difficulty with that system. In my view the message box system is quite anonymous. There is some power for one party or the other to place information that is non-identifying in the box. In relation to the basic principle of human rights, there is a flaw in this legislation. In fact, the second reading speech states -

While providing adoption parties with better access to identifying information about each other, the Bill also provides protection for an individual's privacy when privacy is desired.

That veto can stop people from contacting each other. We probably will not have that problem in the future but it will certainly relate to past cases. The second reading speech refers to a new clause in the Bill which requires the parent or guardian of a relinquishing parent under 18 years to support, by affidavit, the proposed adoption. I would like further explanation of that area of the legislation. What if there has been a family breakdown, the young woman is almost 18 years of age and she has no appointed guardian? Who will make the decision that the affidavit will be signed and what mediation process will take place in those circumstances?

If we are prepared to place kids aged 16 years in adult prisons, how under this legislation can we say that a young woman who is aged between 14 years and 16 years - I share the concern that that person would need guidance to be able to relinquish a child - is not allowed to relinquish the child if she so chooses. I would be interested to hear the Minister's comments on that provision. I have some concerns about page 12 of the second reading speech which states -

In circumstances where a child is harmed by a birth parent persistently consenting to adoption and then revoking that consent, the Government's 1993 Bill provides for the director general to apply to the Children's Court for a declaration that the child is in need of "care and protection" according to the Child Welfare Act.

Could the Minister provide me with a definition of the word "persistently"? It would seem that is a very difficult decision for a birth parent, however old that person might be, to relinquish a child. What constitutes persistently consenting? How many times would that action have to occur before the director general would intervene? The Bill allows the court to dispense with adoption consents under specified circumstances. It will be

interesting to see how that turns out. I guess that refers to fathers who are far more a part of the adoption process now than they ever used to be. It will be interesting to see how adoption consents will be dispensed with and under what sort of specified circumstances that process will occur. I would like some guidance about what is meant by "specified circumstances". I think that provision is contained in clause 24 of the Bill, but I am not sure.

There is a reference to where a man is recognised as the father of a child whose consent must be obtained or dispensed with by the court, before the child can be placed for adoption. Could the Minister provide some examples that are envisaged to be covered by that clause? There are special provisions that refer to the difficulty in the case of rape or incest, and I am not seeking information about that; rather, about other defined examples.

The second reading speech goes into some detail about the three categories for future adoptions, the first being the largest where applicants are applying to adopt a child through the department. Some figures were mentioned last night of there being 86 adoption orders in 1992-93, of which 52 were step-parent adoptions. Of the remaining 34, how many were newborn babies; were there carer adoptions or family adoptions?

It is important that the Bill formalises the committee that has existed within the Department for Community Development for a number of years, which I guess is part of the process of deciding who are appropriate adoptive parents. I am very pleased to see that that will be formalised. I note that the committee will consist of at least four members, all of whom will be appointed by the Director General of the Department for Community Development. That has probably been the custom and practice over the years. It has not been a formalised process. I would be interested to know why those members should be chosen just by the director general, although I cannot think who else might appoint them. It would seem that I have probably answered the question myself, but I would like the Minister to comment on that issue. From page 20 it is obvious there is a significant recognition in the change of societal practices evidenced by the fact that the age of adoptive parents has been raised to be no more than 40 years. That acknowledges the fact that people are having children later in life, which is probably a very good thing. As I said, the Opposition has three or four major objections to this legislation.

[Questions without notice taken.]

Hon CHERYL DAVENPORT: One of the major objections of the Opposition to this legislation is that although the 1992 Adoption Bill placed before the Parliament by the Lawrence Government contained a provision that enshrined the principle of placing children from Aboriginal and Torres Strait Islands backgrounds, and children from different ethnic backgrounds, with families as close as possible to those backgrounds, the current legislation does not contain that provision. I acknowledge that over a number of years the department has had an administrative policy that sought to place children of Aboriginal or Torres Strait Islands backgrounds, or children from different ethnic backgrounds, with families with close ethnic relationships. The Opposition is concerned that this provision has not been included in the legislation.

I will refer now in some detail to chapter 9 of the final report prepared by the Adoption Legislative Review Committee, titled "A New Approach to Adoption", released in February 1991. One term of reference was whether legislation should provide for recognition of Aboriginal and other customary law. The committee prepared an extensive report, a large section of which relates to the history of Aboriginal adoptions and why adoptions of Aboriginal and Torres Strait Islands children should be sensitively handled. The report also addresses current practice, with one section dealing with Western Australia. The part dealing with present practice notes that extensive consultation with Aboriginal people took place. Paragraph 9.16 reads -

The Committee made specific provisions for consultation with Aboriginal people. The response received clearly indicated that adoption provisions are an issue which affect only a minority. For many, raising the issue brought back unpleasant memories of being separated from parents and families by white

fostering and adoption practices, and it was hard for them to talk about it. Two points, however, were made very strongly. The first was that the Aboriginal child placement principle should be incorporated into adoption legislation;

This legislation fails to do that. The report continues -

- and the second was that Aboriginal tribal marriages and long term de facto relationships should be recognised in law for adoption purposes.

Extracts from submissions made to the review by Aboriginal people read -

Recognise that Aboriginal persons should not be further displaced from their culture by being adopted into other Australian families.

All Aboriginal arrangements should be shaped by Aboriginal practice (following on use of Maori experience) not white middle class concepts of families.

We must be mindful of that aspect. Paragraph 9.17 reads -

Respondents to the draft report generally supported the Committee's views. Final Recommendations were reached by the Committee only after consultation with Aboriginal Groups. Comments by individual respondents also assisted the Committee on reaching final decisions.

Paragraph 9.18 reads -

The Committee noted the policy statement of the Secretariat of National Aboriginal and Islander Child Care, given at the 1988 Conference on Adoption and Permanent Care, concerning the Western concept of adoption;

"Adoption is alien to our way of life. It is a legal status which has the effect of artificially and suddenly severing all that is part of a child with itself. To us this is something that cannot happen even though it has been done".

The Committee considers that recognition should be given in law to the existence, in present day Islander and Aboriginal culture, of an extended family structure in which responsibility for the children is not seen as a matter for the nuclear family on its own.

Paragraph 9.19 states -

The Committee noted that, apart from Queensland, Western Australia is now the only State with a sizeable Aboriginal population not to have made legislative provision for the Aboriginal Child Placement Principle. The evidence strongly suggests that without such provision, the Principle is not being implemented in practice.

I acknowledge that this report was released in 1991 and the Department for Community Development tries very hard administratively to make sure Aboriginal children are placed with appropriate adoptive parents. Paragraph 9.20 states -

Many of the comments in the research literature relate to policy and practice rather than to legislation. Much of the research documents and examines the institutional racism which has perpetuated white adoption and fostering policies for Aboriginal children. The need to apply culturally appropriate recruitment and assessment criteria in the selection of Aboriginal caregivers for children is highlighted. The importance of involving extended family members and if necessary the Aboriginal community, in making placement decisions, is also emphasised. The employment of, or consultation with, Aboriginal staff in adoption and child care agencies is seen as important. The use of subsidies (when appropriate) in Aboriginal child care, as in any case of a child with special needs, is suggested as a further means to ensure culturally appropriate placements.

Paragraph 9.22 states -

The following Recommendations reflect the Committee's acknowledgment that the concept of adoption itself, with its implied severance of kinship ties, is alien to

Aboriginal and Islander people. The Committee recommends that any legislative provisions for Aboriginal and Islander children should be built upon the concept of group rights. Four levels of placement should be recognised (in descending priority); the extended family; the immediate Aboriginal community; a closely related Aboriginal community and finally, some other appropriate Aboriginal person. Tribal marriages and de facto relationships should be recognised. A number of respondents expressed the view that this recognition should be across all other areas of legislation and not just for adoption purposes. In recruiting Aboriginal caregivers, flexible and culturally-appropriate criteria should be applied.

The Government has not enshrined in legislation the practice of placing Aboriginal children in those descending four levels of priority, but clause 53 provides that if an appropriate placement might not be possible the director general has the ability to make a decision. Although the Government could recognise the recommendations of the Adoption Legislative Review Committee it has failed to do that. Recommendation 113 states -

That the definition of an Aboriginal person be a person who identifies him/herself as Aboriginal, and

That the definition of an Aboriginal child be a child who is identified by his/her immediate and extended family and Aboriginal community as Aboriginal.

Recommendation 114 states -

That an Order for the adoption of an Aboriginal child should only be made in favour of Aboriginal person(s) who are members of the child's Aboriginal community and who have the correct relationship with the child according to that community's customary law. If this is not possible, then after consultation with that Aboriginal community, Aboriginal persons who are as close as possible culturally and geographically to the child's original community must be considered.

Recommendation 115 goes on to say -

That the placement of all Aboriginal children in adoptive families will involve Aboriginal employees of Government and Non-government Agencies and, where appropriate, representatives from relevant Aboriginal communities.

There would have been no harm in enshrining the committee's recommendations as the Opposition in the other place sought to do by moving an amendment, which was defeated, to define an Aboriginal person. To some extent that would have changed Western Australia's direction in Aboriginal adoptions and set it on the path taken by all other States with the exception of Queensland. I also make the point that had those placement possibilities not been available, clause 53 would enable the director general to make the decision. As legislators we have failed in that regard.

I will relate as an example the case of a young Aboriginal woman who is now 21. She was adopted by a non-Aboriginal family who are very close friends of mine. She was the youngest of four children in the family. The second child had a severe physical disability. This Aboriginal child came from Warburton to her adoptive parents at four months. Until she reached her middle teen years she grew up like any other child, but at age 15 she had a driving ambition to be a woman's hairdresser. Her mother organised for her to have a month's trial with a hairdresser who had a business not terribly far from where they lived. Her mother had a telephone call from the prospective employer on her daughter's first day at work to say that she was sorry but there was no way she would keep the girl on because she was Aboriginal and that would detract from her business. This goes back some years before the advent of the Equal Opportunity Act. That was quite destructive to that young woman's self-esteem. She was very hurt by the situation. It sent her right off the rails and she finished up in Bandyup women's prison at age 18. The family are still trying to cope with that situation. That highlights what I was trying to say earlier: that at all costs we must be mindful that it is imperative that Aboriginal

children are placed, in an adoptive sense, with culturally appropriate families. Nobody could make any criticism of the family by whom she was adopted or the caring environment, but at the end of the day she experienced discrimination because she was black. She got into difficulty with the law and there was police harassment.

Hon Reg Davies: In the city or the country?

Hon CHERYL DAVENPORT: In the city.

Hon Reg Davies: That is the problem.

Hon CHERYL DAVENPORT: Interestingly enough, the family has gone to the country and she has discovered her Aboriginality and found her parents.

Hon Reg Davies: My experience has been in country towns where this has been quite acceptable and there have been no problems.

Hon CHERYL DAVENPORT: I grew up in a small country town and went to school with a lot of Aboriginal kids at Pinjarra High School. At the age of 13 I could see the discrimination that existed. Nevertheless, this illustrates the real difficulty we have in making sure that the wellbeing of those young people is of paramount importance.

I highlighted next the guidelines relating to international adoption of people from an ethnic cultural background and that we need to be mindful about that. As members may remember, the committee had two attempts at trying to solve the difficulties for international and culturally appropriate adoptions. The terms of reference the committee dealt with were, first, whether legislation should provide for recognition of overseas adoption orders and, secondly, whether legislation should provide for recognition of Aboriginal and other customary laws. We have dealt with the Aboriginal part but certainly we need to be mindful of the ethnic part. We have acknowledged and enshrined in the legislation that principle. The Bill provides for the recognition of adoptions made overseas and has taken up the recommendation from the Adoption Legislative Review Committee and enshrined that provision in this new legislation. I want to read into the record a couple of paragraphs from the present practice section. The first deals with international conventions and is 8.17, which states -

Australia is now bound by the United Nations Convention on the Rights of the Child as this Convention was signed in and ratified by Australia in late 1990.

8.18 In the 1988 United Nations Draft Convention on the Rights of the Child, Articles 20 and 21 allow that intercountry adoption may be considered for a child permanently deprived of his/her biological family environment, but only if the child cannot be suitably cared for in the country of origin, and providing the child will enjoy safeguards and standards equivalent to those in the country of origin. The rights of the birth parents to give an informed consent must be protected in law and through access to counselling. Adoption arrangements must be carried out by competent authorities. Access to intercountry adoption should also be seen in the light of article 8 (the child's right to preserve his/her identity, including nationality, name and family relations) and Article 30 (the right of a child belonging to an indigenous or ethnic, religious or linguistic minority to an upbringing which gives him/her full access to a community with other members of the group, enjoyment of his/her own culture, practice of his/her own religion and use of his/her own language).

Article 8 deals with the rights to preserve his or her identity. It comes into the argument I was mounting and will come into it again when we talk about information vetoes. It is enshrined in an international convention, and emerges in the ethnic and cultural placement process. Paragraph 8.19 states -

The United Nations Declaration on Social and Legal Principles Relating to the Protection and Welfare of Children, with Special Reference to Foster Placements and Adoption Nationally and Internationally, ratified in 1986 but not binding on member States provides that -

all due weight shall be given to both the law of the State of which the child is the national, and the law of the respective adoptive parents. In this connection due regard shall be given to the child's cultural and religious background and interests.

That is paragraph 24. The recommendations of the Adoption Legislative Committee which relate to intercountry adoption should be read into the record. Recommendation 105 states -

That legislation should make provision for Western Australia to enter into arrangements with other countries for adoption of children on humanitarian grounds as a service to those children who cannot be placed with a family in their own country and who are available for overseas adoption provided that -

- (i) The arrangements are initiated by and/or supported by countries from which the children are to be adopted; and
- (ii) The arrangements conform with national principles and standards as agreed from time to time by Federal and State Governments.

We have enshrined that in the legislation. Recommendations 106 and 107 state -

That adoptive placements for individual children from overseas may be sought by welfare authorities where it has been demonstrated that they are available for adoption, cannot live within their own family network and cannot be placed with an adoptive family within their own country.

Recommendation 107

That in placing children from overseas for adoption in Western Australia the following placement options in order of preference are -

- (i) Placement with a suitably assessed family who share a similar ethnic and/or cultural background to the child;
- (ii) Placement with a suitably assessed family who are of a different ethnic and/or cultural background to the child and who can demonstrate that they have the ability to accept and acknowledge the child's ethnic and cultural background and foster links with that background in the child's upbringing.

We have not put that section into the legislation, which is extremely emotive because we are dealing with children who may be homeless. All of us remember the circumstances in Romania when the Ceausescu regime fell and other countries were looking to adopt children from that background. While we can feel sympathy and want to offer assistance, we must remember we have to look to the interests and best welfare of the child.

Sitting suspended from 6.00 to 7.30 pm

Hon CHERYL DAVENPORT: Prior to the dinner suspension, I was talking about the international and ethnic cultural differences in the placement of young people. I spoke about the emotive position of babies and preschool children in other countries when a crisis occurs in the country and people in the outside world feel that they can help by seeking to adopt children. I am particularly mindful of the fact that the Adoption Legislative Review Committee took a second look at the cultural differences in relation to this report. I remember vividly a picture on the front page of *The West Australian* which portrayed the then Minister for Community Development, the member for Mitchell, Hon David Smith with a little Asian girl. The thrust of the article was to tug on the heartstrings of people and give the impression that ethnic adoptions could be very useful to other countries. That is the case. Nevertheless, we have to be mindful of the cultural differences and not let the power of the Press run away with us.

One of the most positive and innovative aspects of the Bill is its approach to future adoptions. It will take into account the relevance of traditional adoptions and ensure that secrecy does not become the problem that it has been in the past. It also provides a clear notion that biological ties are very important in people's lives.

The fact that the Bill requires the adoptive parents and the birth parents to negotiate an adoption plan prior to the placement of the child is a very positive outcome of the 10 or 11 years of debate around this Bill. I have no doubt that the emotional trauma that has been associated in the past with adoptions will no longer impact on people's lives. For the future, the provisions of the Bill are extremely positive. I look forward to the legislation providing those outcomes. Another safeguard built into the legislation is that the Family Court will be required to approve the adoption plan and to decide on any areas of dispute. That is a welcome improvement to the legislation.

Comment was made about the 1992 Bill that the Government was concerned at the possibility that adoption parties could continually apply to the court for a variation of the adoption plan. Will the Minister advise me how the mediation process will apply to the court? What is envisaged in terms of the mediation process? Will there be a set period before somebody can seek to vary the terms of an agreement? I note that there is no provision in the legislation. I wonder what criteria will be adopted in order to achieve a change to the adoption plan agreement. The counselling and mediation process that will have occurred at the outset in trying to achieve a viable adoption plan will mean that it will not happen on many occasions. However, I would be interested to know, should that arise, what criteria will be adopted.

The third paragraph at page 28 states that it may well be that one of the outcomes of the greater openness for future adoptions is that adoption may be perceived by the community as a more viable option to alternatives such as abortion. Some members know that the first speech I gave in this Parliament related to abortion law reform. Although abortion is to all intents and purposes illegal in Western Australia, evidence suggests that 7 000 to 9 000 abortions occur annually in the first trimester of a pregnancy largely due to failed contraceptive measures. This comment is an interesting one because it seems to me - and I may be wrong in my assessment of this paragraph - that it is saying women would be more inclined to carry a baby that was a mistake to full term because of the greater openness of the potential for relinquishing a child from here on in. As a woman, in my personal view it would far easier if I were a victim of failed contraception to have a termination in a first trimester than to take a pregnancy to full term and relinquish a child at the end of that. I am not advocating abortion; I am saying it occurs. In my first speech in this House I stated evidence from very reputable sources that indicated that 7 000 to 9 000 abortions were conducted annually in the first trimester within Western Australia. I hope this does not mean that police will be likely to enforce the abortion offence because of the antiquated legislation existing in the Criminal Code relating to sections 199 - 201. It is still on the Statute book. The first offence that appears on the police computer is abortion. I am not saying that is the intent of the Government, but such a comment concerns me. Is it suggested that women should carry a child full term because that would provide children for adoption? I make those points and seek assurance from the Minister that that will not be the case.

Hon E.J. Charlton: The member can rest assured that the changes to legislation will encourage a pregnant mother -

Hon CHERYL DAVENPORT: Certainly the counselling process is in place for potential adoptive parents or relinquishing parents. As abortion is illegal in this State, there is no funding for counselling for women who might seek to terminate a pregnancy. I mounted an argument when we were in Government with our then Minister for Health but had no joy.

Hon Graham Edwards: What a good Minister he was.

Hon CHERYL DAVENPORT: I am not denying that. In relation to termination, a need exists for counselling if a woman seeks it. Counselling statistics from the Family Planning Association indicate that 50 per cent of women counselled take their babies full term. There are some lessons to be learnt from that. I have stated earlier in my contribution my reservations relating to the issue of relative adoptions.

My next area of concern is that the 1992 Bill introduced by the Lawrence Government did not seek to permit the adoption of adults. Why has the Government proceeded to

include that in the Bill? If an adult wanted to acknowledge he had been cared for by a family other than his own, he is able to change his name through deed poll. This provision is superfluous and I wonder at the logic of its inclusion. The 1985 amendments to the adoption legislation allowed the establishment of private adoption agencies but to date no applications for private adoption have been received. That provision remains in the Bill and although I do not have any difficulty with that, there hardly seems a need for a private adoption agency unless we were suddenly faced with wholesale adoptions, perhaps from international sources. Why has that been left in the Bill?

The review processes in this legislation are a very positive inclusion. Firstly, an aggrieved person may apply to the director general for a review of his or her case. Secondly, there is a further right of appeal with leave to the full court. Thirdly, under the provisions of the Family Court Act of 1975, decisions made by the Family Court may also be appealed in the full court. Enshrining those things in the legislation is very positive. The comment in the second reading speech that adoption is an area which evokes strong emotions is a very apt description of this legislation. The desire for all parties to access information is very strong and there is a need to protect both the individual who is the adoptee and the relinquishing or adoptive parents. We have no difficulty with that.

I now come to the two sections where our ideas are different from those of the Government. As legislators we have a very grave responsibility to determine what the correct balance is for people involved in the adoption triangle. The issue of contact and information vetoes has been discussed. I want to re-emphasise that the most important feature in this debate must always be the child. That goes for the past and the future. On that basis I find it very difficult and a gross abrogation of human rights that we should seek to impose a veto of information for adoptees. Although members may not think that presents a problem, it does, because this is a retrospective Bill and it affects the past. The major fight which has been waged over the past 11 years has been from relinquishing parents who, for the many reasons I mentioned at the beginning of my speech, were left with no alternative other than to relinquish their child. This Bill puts in place a denial of human rights to have access to that information.

This afternoon I spoke very briefly to Glenys Dees from Adoption Jigsaw WA Inc. Neither that organisation nor the Opposition wants the passage of this Bill delayed, especially after it has had an 11 year gestation period. However, evidence suggests that a fairly successful campaign has been waged by the adoption privacy protection group which was established in Queensland. This group comprises a number of elderly adoptive parents whose adopted children are probably in the 50 to 60 age group now. Therefore, the adoptive parents are between the ages of 70 and 90 and they have never told their children they were adopted. In the Legislative Assembly the Opposition moved amendments to clauses 99, 100 and 101. I do not propose to move the same amendments in this House, but I suggest to the Government that it might be appropriate for these three clauses to be referred to the Legislation Committee after this Bill becomes an Act. This would allow the clauses to be fully examined to determine whether they should be amended to provide for the better functioning of the legislation. If my memory serves me correctly, that was done with the disability services legislation last year. The committee suggested amendments to the legislation which made it better and that helped to satisfy the concerns of the constituency group for which we were legislating. The potential exists for these clauses of the Bill to be more relevant in today's world. I am not suggesting that the entire Act should be reviewed, but this House should allow the Legislation Committee to consider these three clauses. I recollect the same procedure being adopted in the case of the Workers' Compensation and Rehabilitation Act.

Clause 101 provides for a lifetime information veto, which is restrictive. The Northern Territory Parliament, one of the smallest Legislatures in Australia, inserted a provision into its adoption legislation to provide for the information veto section of the Act to be reviewed every three years. The Legislation Committee could consider the legislation which operates in other States and call before it witnesses who have concerns about this clause to put forward their views. The committee could then come back to the Parliament with recommendations that would make this better legislation.

Hon E.J. Charlton: That veto is in place until the parent passes away.

Hon CHERYL DAVENPORT: That is right, but it is draconian. No-one knows when that might occur. The representatives of Adoption Jigsaw were keen to tell me that they would accept the notion of a veto which could be renewed every five years. I am sure that compromises would be gained from such a process. It is a last minute plea from an organisation which has worked for many years to have this legislation implemented. The New South Wales legislation provides for vetoes and I will quote from information I received from the Parents of Children Lost to Illegal Adoption. The New South Wales Act was enacted in 1990 and the information outlines what has occurred since then. It refers to recent statistics. It reads -

It is fair to say mother and child have the right to search for one another. If the adoptee or natural mother refuses to be contacted we should respect that request and preserve their privacy. The new law of inquiry in N.S.W. is a good law, it grants people the right with the understanding that the other party has the right to refuse.

The Opposition would not want it to be any other way. To continue -

It is of interest to consider some recent figures from N.S.W. 7,166 adoptee's and natural parents applied to The Department of Births, Deaths and Marriages for original or amended birth certificates, 219 (3%) were applications refused by a veto, of these 31 have been lifted. Many more varied, usually to allow contact between natural parent and adoptee through the Department. The N.S.W. Reunion Information Register has 15,985 names of persons wishing a reunion. There are 22 names (less than 0.2 percent of the total) registered as not wishing reunion.

It is interesting that the evidence from New South Wales suggests that only one person has failed to honour a contact veto. That Act, having been in place for three years, speaks volumes.

Having the three clauses to which I have referred examined by the Legislation Committee when the Bill becomes an Act will make for better legislation. I take heart that the Bill provides for a review of the Act two years after it comes into operation. That period could be as long as four years because my information is that the Bill will not be proclaimed for at least six months because of the mechanisms that will need to be put in place. Therefore, the Act will probably not be reviewed until the third year of its operation and the review process could take the best part of six months. I am sure there will be extensive consultation in that review process. The information that will be collected by the department will form the basis of the review. I hope that the terms of reference will include the sorts of things the Opposition has alluded to during the second reading and Committee stages of this Bill. I hope the Government does intend to consult with the people who have been most affected by the adoption process over the years; that is, the groups that have fought very hard over the past 20 years and very intensely over the past 11 years. Society's attitude towards adoption has changed a great deal, and I hope that the views of those people will be taken into account and that amendments will be made to this Bill four years down the track if that is required.

The Opposition supports the second reading of this Bill. The current Act will be 100 years old in 1996. It is always difficult to achieve social reform. It seems to be easier to achieve economic reform. It would be a nice social justice outcome if we could link both economic and social reform. I have pushed very hard for that in my party. We are still getting there, and I will be committed to it for a long time. The Opposition is generally pleased with the outcome of this legislation. I am pleasantly surprised that the Government has picked up most of the changes which the 1992 Lawrence Government Bill sought to implement.

HON REG DAVIES (North Metropolitan) [8.02 pm]: Adoption is an emotive topic which affects many people. I congratulate the Government for introducing this Adoption Bill. I know that many people were disappointed when the previous Government's Bill

was not fully debated and passed. This Bill is long overdue. It is correct that for the last 90 years there have been many changes in social attitudes and traditions, some good and some not so good. In fact, this morning I heard a discussion on national radio about the downward spiral in the film industry and the seemingly perverse interest in base human behaviour. That reinforced to me that not all progress and not all social change is desirable.

We all understand the historical rationale behind adoption. Many years ago, adoption was conducted to ensure that children had food and shelter so that they could survive. It was not until after the Second World War that secrecy crept into the adoption process, again because of the prevailing social attitude of the day. It was thought that relinquishing mothers should get on with their lives and make a fresh start, and that adoptive parents should keep the big event secret, for good or bad.

The second reading speech points to the triangle of parties to adoption. There are often three different perspectives, all multifaceted. We as legislators are asked to correct the balance of the relationships within the adoption triangle, whether welcome or unwelcome, to the best of our ability at this point in history. I applaud the Government on its contention that adoptive children are not a by-product of the wants and needs of adults who have had input into the drafting of this legislation. The paramount concern of this Bill should be the needs of adoptive children. The secondary concern should be the relinquishing parents and the adoptive parents. The birth parents are, by and large, responsible for choosing to give birth to that child. A child does not ask to be conceived. A child does not ask to be born. A child is the innocent party. We must remember that it is the life of the child which will be influenced by this legislation. This legislation in its modified form is much better than the legislation that came before the Parliament in 1992. That legislation was slanted more towards the relinquishing parents. This Bill is slanted towards the needs of the child.

I represent another side of the adoption triangle. I am an adoptive parent. There is no way that I could be a party to an uninvited intrusion by my adopted son's relinquishing mother into my relationship with my son. My son Adam is almost 22 now and he has known right from the word go that he was adopted. That has never been of any great concern to him. If he ever chooses to look for his adoptive parents, he will have both our financial and emotional support. My concern is the aspect of retrospectivity. I would resent it thoroughly if the birth mother contacted my family, or had some agency do so on her behalf. People adopt a child in good faith under the prevailing social mores. Those people are called mum, dad, mother or father. I am concerned about the word "mother" in the interpretation clause of this Bill. I interpret it as being the person who gave birth to the child. I wonder whether, when this Act comes into force, my wife will suddenly legally become Mrs Davies or Kay to our son. Will she become the adoptive Mum to our son? Similarly, do I suddenly, after 22 years of being Dad to my son, become Mr Davies or Reg to him under this interpretation, or do I legally become his adoptive father?

The term "mother" draws the nature-nurture elements into the discussion. It is only natural that a child will be genetically inclined towards his birth parents, but what about the nurturing aspect of a child's life? That factor has more significance in the upbringing and behaviour of a child; what children observe is what they are. Maybe on the legal aspects of this matter I am overreacting to this interpretation, but I would like the Minister's comments in his summing up to the second reading debate.

I hope that you, Mr President, appreciate that I am relating my personal points of view on these matters. As a legislator I must modify my experience and vote in recognition of the fact that not all adoptions are as happy and as ideal as our experience. However, I would hate to see the retrospectivity clause creating something like the incident we saw depicted on television last night: A young man, on his eighteenth birthday, received a letter from his birth mother indicating that she wanted to make contact with him. That was the first he had heard of his adoption. We can understand the trauma that that situation must have caused that young man. My son was told of his adoption right from the age at which he could understand the situation. I do not condone secrecy in adoptions; at the same time,

adoptions entered into in the past were under different circumstances, and these should not be altered now because some of the parties suddenly do not like those agreements.

As a parliamentarian with a large constituency, it is hard to please all the people all the time. Once this Bill becomes law, people will enter adoptions with full knowledge of the new rules. I accept this proposition. We must also acknowledge that very few adoptions these days are like those of the past, as most involve step-parents. In today's society birth parents are given every opportunity to keep their babies, and children are given up only in exceptional circumstances. However, the adoptions made will be in full appreciation of the new rules.

Even when the new laws are before us, I do not like the thought of another party participating in the raising of that child. It is another unnecessary complicating factor in the child's upbringing. Parties are happy when the child is first born, and they will agree to almost anything at that time. However, we should be smart enough to know that nothing stays the same. Although people first agree on all sorts of things when the baby is born, what happens if there is a major disagreement later on, perhaps during the teenage years? Who has the right to make the ultimate decision on such matters? Who becomes the adjudicator? Do we bring in a fourth party? Our society is confused enough now without children having to grow up in a two father and two mother situation. Ideal as the relationship may start out, we cannot guarantee that there will be a long term understanding. Even within natural families, disagreements arise between mothers and fathers about the way children are raised. In fact, we know that such disagreements between two competing interests often cause marriages to break down. To put another set of parents into the picture on a daily basis would complicate the situation.

Access to information, including telling the child about his birth parents, is very sensible and necessary for the future. However, we have no right as a Parliament to intrude into people's lives, particularly if they entered into an agreement some time ago and decided not to tell their children that they were adopted. We do not have a right to dictate to them now. Certainly, future adoptions will be open. We are a more open society these days, and the changes will probably be a good thing for the future.

Regarding the adoption of ethnic and Aboriginal children, some things need to be left to the good judgment of the department. Once again, we cannot lose sight of the fact that the best interests of the child must be served first. A great deal has been said about the adoption of ethnic and Aboriginal children, and of course it is much better if they are placed in an environment which is culturally sound to them. As I said, the best interests of the child should be first served.

I will illustrate this matter with a personal experience. My wife gave birth to our natural son some 26 years ago; in fact, I was serving in Vietnam when he was born. In the ensuing years my wife had numerous miscarriages and found it very difficult to have a full term pregnancy. After the death of an infant son, we were accepted as adoptive parents. A baby girl was allocated to us, and as we already had a son we were very excited at the prospect of a little girl. My wife went out and bought everything in pink. Suddenly, we were told that the birth mother would not accept us as adoptive parents because we were not Catholics. That was a most traumatic experience, particularly for my wife. It says a lot for that 28 day period when the birth mother can consider her options. That is an innovative clause within the legislation. I would like to see that 28 days as a clear period when the girl can have counselling and support and not be interrupted by people offering prospective adoptive parents to her. She could be given the full 28 days that is referred to in the Bill to allow her to consider her own thoughts and to ensure that her decision is made without outside influence, other than that of her family. I was most interested to learn, when I spoke to some women today, that it takes up to six weeks for a female to recover fully from the birth of a girl and it takes four weeks to recover from the birth of a boy. That could be a fairly traumatic time for a girl who is preparing to give up a child for adoption.

Hon E.J. Charlton: I am advised that that may not be accurate; although it may be fact for some people.

Hon REG DAVIES: I am not saying that it is fact.

Hon Bob Thomas: Did they give reasons?

Hon REG DAVIES: No. The people from the Jigsaw group told me that this afternoon. It is important that the girl and the family has that 28 day period without any interruption to make that very important decision.

It could well be said that today's society is overreacting to this Bill. Very few adoptions take place because of the change in our social values. We all know that once it was seen to be a great disgrace for a family if an unmarried girl became pregnant. She was forced either into marriage or in some circumstances to give up her child for adoption. In today's society it is no longer taboo to have a child out of wedlock or for the birth mother or father to raise that child.

In essence, I support the legislation. However, I would like clarification of the points that I have outlined. I would like to see more encouragement, as opposed to dictation, in relation to deciding on an adoption plan for a child. I, too, am concerned about clauses 100 and 101 that relate to the veto. It is a very good compromise on behalf of the people from the Jigsaw group who suggested there should be a five year renewable veto clause. I understand that if there is a veto, or no information clause, people cannot get a correct birth certificate. It is everybody's birthright to be able to get a birth certificate. The length of the veto - a lifetime in this case - is far too long. However, the legislation has a sunset clause and it will be reviewed in two years' time. Because of the immense interest in this legislation, the immense expectations within the community and their faith in the legislation, it is important that those people who have been waiting for many years should have the opportunity to try to make contact with their natural families. If the legislation is not working, at least in two years' time, we will have the option of redrafting certain aspects of it. I ask the Minister to give that aspect very serious consideration. I would support that clauses 100 and 101 be reviewed after the third reading of the Bill.

I know that Hon Tom Stephens would like to speak to the Bill and that he has other commitments. Therefore, I will conclude by saying that adoption has been a fairly important part of my life. In fact, one of the greatest joys of my life has been centred upon the adoption of a wonderful son. One of the greatest regrets is that I was not adopted as a child.

Hon T.G. Butler: The couple would have given you back.

Hon REG DAVIES: I come from a family of 13 children, a very poor family, and a family that had great problems and a marriage breakdown. When I was young I was sent to live with my grandmother along with my twin sister. I had an aunt who was well off and who wanted to adopt me. For some unknown reason my mother decided that she did not want any of her children adopted, even though we were living in poverty and were affected by the broken marriage. My situation would have been better today had she only agreed to that adoption. My aunt and uncle subsequently adopted two wonderful children who are now adults and who have very good financial prospects. With those few words and those few reservations, I support the legislation, and I hope that it quickly becomes law.

HON TOM STEPHENS (Mining and Pastoral) [8.27 pm]: The issue of adoption is a most intriguing one. When it has been raised in discussion within my party, in committees and within the Houses of this State Parliament, it has been fascinating to hear how many individual's lives have been affected by adoption. It was an amazing experience to listen to parts of the debate about the adoption process in another place - it seems quite long ago now - and to realise that so many members of this Parliament have been touched by the adoption question. I listened with interest to Hon Reg Davies talk about his intimate connection with the adoption process, the problems it presented to him, and his half whimsical attitude to the fact that he had not been adopted when he was a child. It is intriguing to see within our community so many people touched by this question. It is also fascinating to see that an issue such as this has taken so long to finally

arrive for resolution in the upper House of the State Parliament in the concrete form of legislation which will finally bring a new regime into the whole area of adoption. I notice the absence of volumes of visitors to the Public Gallery; I can see only two or three people - perhaps members on the other side can see more clearly.

Hon George Cash: A number left when you stood up.

Hon TOM STEPHENS: They are missing some good wine!

Hon George Cash: Wine with an "h"!

Hon TOM STEPHENS: As is his wont, Hon George Cash is at his rudest best! The absence of large numbers of visitors to the gallery seems to indicate that either this issue, that has impacted so significantly on a very large section of the Western Australian community, has been adequately and comprehensively resolved to the satisfaction of the various interest groups or, alternatively, this war of attrition, this legislation by exhaustion, has finally worn out the various interest groups that have been pressing for a new adoption regime. I fear the last situation is the case. So many lobby groups interested in adoption have decided to grab what is there despite the legislation's imperfections and the fact that it does not adequately address their viewpoints. They want this regime at least in place in the hope it will be better than what has been in place until now. The old regime has been in place in this State for nearly 100 years.

Hon E.J. Charlton: It has been amended.

Hon TOM STEPHENS: Yes. The first adoption legislation was introduced in 1896.

In discussing this question, Hon Cheryl Davenport demonstrated her enormous capacity for sensitivity to the varied interest groups. I can well understand the emotion she felt and displayed to all of us as she applied her fine intellect to debating the pros and cons of the Bill and then advising the Minister of the Opposition's support for it, with reservations. I strongly support so much of what Hon Cheryl Davenport said, as she well knows. She knows that there is a little about which she spoke with which I disagree. That comes as no surprise to her. Members on this side of the House do not often display their differences on issues in this forum; however, one issue Hon Cheryl Davenport raised is one on which we have freedom to indicate our different viewpoint. I am referring to that section of the second reading speech where it says -

It may well be that one of the outcomes of the greater openness of future adoptions is that adoption may be perceived by the community as a more viable option to alternatives such as abortion.

Hon Cheryl Davenport explained in her contribution to the debate, as she has in other contributions, including her maiden speech to this Parliament, that she was concerned about that paragraph and those sections of the Bill that connect with it, fearing that it does not auger well for the women within our community who opt for abortion.

I have a different perspective on this issue. It is a position I have developed after many years of reflection about that issue in our community. I have listened so often to the arguments on either side of the issue.

Hon Sam Piantadosi: Do you support the pill?

Hon TOM STEPHENS: We do.

Hon Sam Piantadosi: Not the Bill - the pill.

Hon TOM STEPHENS: The Bill is indeed supported by the Opposition.

Hon Sam Piantadosi: Sorry Tom.

Hon TOM STEPHENS: Hon Sam Biantadosi will leave me to make my contribution, I am sure.

Hon Sam Piantadosi: I will give you a bit of moral support.

Hon TOM STEPHENS: I thank Mr Biantadosi.

I think the legislation at least holds out to the community an opportunity for some

alternatives to abortion, not with some draconian type response to that sad phenomenon, but rather an attempt to set in place an alternative whereby the welfare of the mother and the unborn child is looked after by a regime that provides certitude, openness and a clear perspective over the years ahead of them having opted for life for the child. I have developed my position on this question, not by myself as a male parliamentarian, but through a long period of dialogue with my wife on this question by going over the issues and the arguments.

Hon E.J. Charlton: We always said your wife has a great influence on you and is a great lady. We only wish you allowed her to influence you on other things.

Hon TOM STEPHENS: Thank you Mr Charlton. I think that was possibly a compliment to my wife and some sort of insult to me. Nonetheless I thank him for the compliment to my wife and show my cheek to the insult that is yet again thrown my way.

Hon E.J. Charlton: It shows that you are a good judge of a nice lady.

Hon TOM STEPHENS: I do not want to canvass extensively the question of abortion, but since it was raised I will express my diversion from the viewpoint of my colleague, Hon Cheryl Davenport. I hope that the hope outlined by the Minister's second reading speech will be seen to be realistic, that there will be a greater openness for future adoptions, and that adoption is perceived by the community as a viable alternative to abortion. Far too easily people have turned to the abortion option and not explored the alternatives, including adoption. It is easy for a male parliamentarian to say that. Nonetheless I say it, recognising that one can be ridiculed for that because of the cosiness of one's masculinity and the lot that leaves one in life of never having to accept physical responsibility for a pregnancy or the implications of a pregnancy.

However, it is not just that reality which should restrict the consideration of the question by a member or anyone. One can apply one's heart and mind to questions such as this. That has left me encouraging people to opt for expressions of optimism about life rather than accepting a defeatist and pessimistic approach to life, particularly life at that early stage in the womb, and to not give in to pessimism that says nothing good comes from seeing that life sustained in our community. That does not come as a viewpoint of a right-to-lifer. I have no truck with single issue zealots. I believe the position I have adopted on this question leaves me and those who share my position with enormous responsibilities to ensure that much within our society is changed in the support for women, families and children so that the option of life is viable and not a burden, to the young life itself, to the mother, or to the wider close community around it. It should be an option that is supported by the small communities of families and localities and by States and nations in accepting responsibility for a society free from the easy abortion alternative.

I have tried to encourage the single issue zealots who write to me on this question to consider that obligation. Over the many years I have been a member of this Legislature it is one of the questions that is regularly canvassed with us as parliamentarians. We are asked what our attitudes are towards abortion. We continually receive letters on the issue. I give a detailed response to the people who raise the issue with me, and try to elicit back from them a code of action in their own lives and communities that would accept responsibility for their views; that is, in their own communities making sure that there is support for pregnant women and girls who are faced with the challenge of a pregnancy in circumstances that they may not have wished.

No more than once have I received a response from people whom I call single issue zealots to indicate that they have understood what I have been saying to them. The one exception is a woman from Geraldton who has corresponded with me over a period of 10 years about things she has wanted to do together in supporting this life giving alternative within the Geraldton community. She has demonstrated to me her bona fides in recognising the consequences of adopting that position of support for life. This Bill is one of the necessities of addressing that question of opening up positive alternatives for women when faced with an unwanted pregnancy.

I agree with everything Hon Cheryl Davenport said in this debate, with that one exception. Certainly, I agree most strongly with her viewpoint that of paramount interest to the legislators in addressing this question of adoption should be the interests of the child. I could not agree with her more strongly as she summarised the crucial issue for this legislation. Although I may differ with her opinion on other questions, I agree that that interest is paramount. The question of ensuring the paramount interest of the child requires the legislation to balance the interests of the relinquishing parent with the adoptive parents, because the child's interests are best served only when all of those interests are appropriately balanced. That holds out a daunting challenge for us as legislators.

By and large this legislation has managed to appropriately balance those competing interests. However, there is one area in which I regret this legislation does not adequately address the need to balance the interests of the different parties to the adoption process; perhaps predictably, it is the area of cross cultural adoption. Not only do I fear that, but all my gut instincts tell me that it is a pity this Bill has not gone down the path of enshrining within it that which we as a community now know is an appropriate response to the needs of a child. That is, the interests of that child are best served by ensuring that the child is placed within his or her own racial and cultural background as a goal of this legislation. The second reading speech makes it clear that the code of Government is now being utilised to ensure that that goal is striven after by practice, but the legislation falls short of putting that goal within the Statutes. I regret that. There has not been unanimity among my own parliamentary colleagues on the question of cross cultural adoption.

The experience I draw on is that of the Aboriginal community, where far too often within the State and across the nation Aboriginal babies and children have been taken from their cultural context and placed with families of non-Aboriginal background. With alarming degrees of predictability, those cross-cultural adoptions have been disastrous for the child and in many cases for the adoptive parents. There are exceptions but I strongly believe that they prove the argument that cross-cultural adoptions, particularly for Aboriginal children, are a disaster. I would like the experience of our community to be enshrined in this legislation to ensure these disastrous social practices do not have any support as we move into the last part of this century. The Aboriginal community has warned of the results of this type of social policy. So many of the disruptions in their lives can be traced to the loss of a bond with their immediate families, their extended families and their own people, when they were placed with non-Aboriginal families, robbed of their connections, and denied the opportunity of understanding their culture and valuing their origins.

That strategy has played itself out, and not just simply for the people who have experienced it personally in the first generation. It has also created dynasties of disaster from one generation to the next - families living away from their Aboriginal context who have been robbed of the security of their cultural background and positive images about their racial origins, and have been left with negative self-images that play themselves out in socially dysfunctional behaviour. That affects not only the Aboriginal people and their communities, but also impacts on the wider community. I hoped the legislators at the end of the long experience of this phenomenon would have adopted a strategy indicating that enough is enough. I hoped the legislators would retreat from that practice and adopt an alternative strategy. We should insist by Statute that children of certain racial and cultural origins are raised in a context in which those racial and cultural origins are reinforced and supported, rather than those children experiencing the alienation of being in families dissimilar from those from which they came.

Some of those experiences for the Aboriginal community are playing themselves out for me as a member of Parliament in the current calendar year. I have been receiving calls from the Aboriginal chairman of a certain community, who is trying to have returned to that community and its Aboriginal families, children who are in the care of non-Aboriginal families. Those non-Aboriginal families have made moves to adopt the children and sever their relationships with their Aboriginal mothers. The Aboriginal

community continues to find that offensive, and Aboriginal agencies dealing with adoption have lobbied us to ensure this legislation will reflect their recognition of the disastrous path represented by those cross-cultural adoptions.

It has become clear from debates in another place that it is necessary for the Opposition to accept on this occasion legislation that falls far short of the ideal. That is a great pity. Adoption is clearly a phenomenon that has been part of the human experience throughout our history and has touched the lives of many. In classical Rome and ancient Greece adoption had a status that is quite dissimilar from the status it has within our community in recent times. In the not too distant past in our own communities, we were so intimate a society that nothing was private or secretive about pregnancy, birth and adoption. Nothing was unknown to the communities in which people lived. It was only when communities became larger and cities bigger that anonymity was possible, and secrecy about unwanted pregnancies and the need for adoptions became a reality. Legislation was adopted which reflected society's aspirations for protecting the privacy and secrecy individuals were seeking in these matters.

At the weekend I was talking to some members of the Aboriginal community in Broome, and they were laughing about the great contrast between the western ways of the non-Aboriginal community of this State and their own openness to so much that happens in their lives. They find it quite fascinating that westerners try to paper over, hide, disguise, and make secret the realities that impact on them as individuals or on their families or communities. For the Aborigines these matters are always open and in the marketplace. As a result, I think they form a stronger community because of the shared knowledge they all have of each other's circumstances, including the origins of individuals within their complex social structures.

Over the past 100 years we have gone through an extraordinary amount of sensitivity and desire for privacy on these questions. That sensitivity and desire for privacy produced legislation that quite inappropriately extinguished the interests of some of the parties to the adoption equation - certainly the interests of the relinquishing mother, because too often her interests were extinguished by Statute; sometimes too the interests of the adoptive parents and most certainly the interests of the child that we all now recognise as being paramount in the consideration of this question.

I think that 1994 is an appropriate time for us to be making a new start with such a Bill, to be seeking a more open approach to the question of adoption, and to be trying to make available to the parties associated with the adoption an openness about it. It is a rejection of the notion of secrecy and privacy that extinguishes the rights of other parties in the complex web that adoption represents. In that context I am pleased to see that considerable progress is being made with this legislation. I regret that it has fallen short of the expectations of some of the lobby groups. In particular I regret that it has fallen short of the legitimate hopes and expectations of the Aboriginal community, which represents such a significant section of my electorate. I hope that their legitimate expectations can soon be addressed by amendments to this adoption legislation, amendments that will enshrine within the Statutes opportunities for ensuring that their tragic experience of adoption away from their community is not repeated in the future history of Western Australia. I support the Bill.

HON MURIEL PATTERSON (South West) [9.01 pm]: I take the opportunity to commend both the Government and the Opposition for the final outcome of this legislation. Both the Opposition and the Government have taken a bipartisan stance in an endeavour to come to a decision in the best interests of all concerned. It is important to recognise that adoption involves three parties and often three different perspectives. Because of the emotional aspect of the adoption process, and the intense lobbying it engenders, it has required enormous consultation. Social change is always a very difficult process. It is also difficult to separate a vocal minority group from the wishes of the public in general. This legislation contains a provision for a review period which will give us some comfort and an opportunity to reassess the situation after two years. We will have an opportunity to see how the legislation functions in the real world.

I find the history of adoption immensely interesting. We are all familiar with the biblical story of how, as an infant, Moses was hidden in the bulrushes and was found by Pharaoh's sister. She took the child and brought him up as her own, a royal prince - arguably that could be called an adoption. Over time men and women extended their families by caring for their orphaned nieces and nephews. They would have been open transactions, not documented. Therefore we will never know to what extent caring for other children has been part of our history.

I was interested to read that the first modern adoption laws were passed in Massachusetts in 1851, and in New Zealand in 1881. I note that Western Australia was the first Australian State to introduce adoption legislation, in 1896 - the main intention being to protect children of destitute mothers from exploitation and to provide minimum standards of care. This legal safeguard has regulated more than 20 000 adoptions. Since that time numbers have steadily declined from an average of up to 42 adoptions a month to just over one a month in 1991, when only 14 locally born children were adopted in Western Australia. Contraception, financial assistance by Governments and changing attitudes towards the single parent have given women an option of choice. Therefore the declining trend in adoption is unlikely to be reversed.

I listened with great interest to the speech delivered by Hon Cheryl Davenport. I too have heard of such stories. I am aware of the dreadful judgmental period owing to the self-righteous in the community; the secrecy and the disgrace of being caught out. The real sin was being found out, not the original action. At that time an adopted child was considered a lesser person. In hindsight we have all the answers - whether it be the wrong partner, a drunk or careless driver who caused horrific accidents, the regrets of abortion, or becoming pregnant. I have great sympathy for the relinquishing parent who suffers grief at the loss of a child. However, one must not assume that every relinquishing parent wants to be confronted during her middle years with the consequences of her - and his, it should be noted - youthful indiscretion. Several women in my electorate have contacted me, fearful that their past could be disclosed when they had not told their husbands or families; therefore retrospectivity must be a three-way agreement. Recently I was told of an adopted young woman who was overjoyed at the news of her pregnancy. She decided to share her joy with her relinquishing mother. Her mother was located by the Jigsaw movement. The relinquishing mother refused to see her, and that rejection caused the young pregnant woman severe emotional distress. I can identify with Hon Reg Davies' caution on retrospectivity.

During the sittings of the Adoption Legislative Review Committee I was sent a copy of a submission to the review. The gentleman concerned knew of my interest in adoption and wanted me to know what he had submitted. I will quote from a small portion of his submission relating to recommendation 2. It reads -

When any legislation is made retrospective, an injustice is done. A breach of contract or trust is committed. In the case of adoption, relinquishing mothers and adopting parents took action which they thought best for the child with the understanding that they could build lives without threat of future interference from birth parents/adoptees. Without arguing future legislation at this stage, I am registering my severe annoyance at proposed retrospective legislation.

My wife who is adopted into a very secure family, had her right to privacy violated by a person who was unrelated, but who felt that my wife and her birth brothers should make contact. When my wife insisted that her family are her adopted family, and therefore did not want contact, she was lectured on her lack of sensitivity to the needs of others. No regard was given to sensitivity to her situation and privacy.

This interfering person had no right to have identifying information in any case, and when she did have it she abused it.

That is one of the reasons I strongly support a veto system for those not wishing to be identified. The veto of no contact stands without a renewal, until or if it is lifted. A veto can be lifted immediately if the person who placed the veto has a change of heart or

circumstances. This needs to be emphasised. The veto is not written in stone, but it is placed there at the time to respect the feelings of that person. Whether that person should or should not place the veto is not something any of us can answer because as individuals we all have different needs, requirements and emotions. The message box system is an excellent alternative. Allowing for messages to be left would be a comfort for those needing assurance that all is well or for any other reason. I have spoken to people who have relinquished children and their main concern is to know how they are. They do not want to interfere or know anything about the other people. This message box is something that should be encouraged.

There has been quite a discussion on cultural adoptions. When musing on the considerations for nationality placement I realised how small the world has become. Travel and communications have made all countries our neighbours. Among my husband's and my immediate families are many relationships of mixed nationalities, which is something not unusual in large families. Czech, Scottish, black American, English, French, Turkish, American, Aboriginal and Filipino nationalities I can readily identify and, only this week, I found a budding romance going on between a family member and a South African. We live in the twentieth century; Bills on racism and equal opportunities have been passed in our Parliaments. This country comprises many different nationalities, so it is inevitable that we will see a growing number of mixed nationalities forming relationships. I commend the Minister for not succumbing to the pressure of restrictive legislation placing Aboriginal children with only Aboriginal families. Hon Roger Nicholls has shown wisdom and provided for the director general to give the relinquishing mother the preferred attributes of the adoptive family, clearly giving her a choice. If she feels strongly that she wants her child brought up in an Aboriginal culture she will identify this. It is important that we do not confuse this issue with the past when Aboriginal children were taken away unwillingly from their parents. Sometimes one hears the proponents expounding the view of the right to knowledge of one's heritage. I do not intend to debate this point of view except to say that it would be a very naive person who assumed that all children born into a family are told of their heritage honestly. I am acquainted with several children fathered by men outside of marriage, and in my opinion it would be foolish in the extreme to tell the children that their heritage was different from that of their brothers and sisters. Circumstances differ and commonsense must prevail.

I am pleased that the Bill urges parents to explain adoption to their child. Without a doubt this is essential for the building of care and trust within a family. It is also a statement to the adopted child that his or her parents are proud of their adopted child, that they have nothing to hide, that the child is a special child because they chose to bring the child into the family and it was not conceived in a night of wild passion. It would be impossible to explain the joy of adoptive parents welcoming a child into their family. It is human nature not to appreciate what we have unless we believe we do not have it. Most members here today have possibly taken their families very much for granted. When they married they probably expected to have children and were delighted when they arrived. This is not always the case. In my own case, Rol and I have four adopted children. From our very first contact with our children we told them of their adoption and often spoke of adoption to them in the family and at various stages of their growth so they understood it better. I can truly say today that I do not believe any of them had any hang-ups or concerns about adoption. I can remember one of the little fellows going up to someone when he was about two and a half years old and saying, "I am mummy's darling adopted son." He attached to the word "adopted", as it should be, and as it was, a sense of endearment. I note that the Bill suggests the child be told at two years old. I urge adoptive parents to start before then because intelligent children do understand what is said to them at an extremely early age, long before they can convey to others their knowledge.

During the 1960s our family car was stolen and, along with the car, two of our young children. The episode resulted in national headlines across Australia and New Zealand. Some 700 police and searchers were looking for our six year old son, Dawson, and two

year old daughter, Fiona. It was a harrowing experience for both Rol and me. Our first thought was, "Who has taken our children?" Since then I have found out it is a very common fear among adoptive parents. Adoptive parents wonder if perhaps someone decided they want their child back. Just about every household in the district discussed the kidnapping of the Patterson children. At school one of the classmates of our eldest child, eight year old Warren, said that he heard his parents talking and they said the Patterson children were adopted. Warren told him that if he had just found that out he was pretty dumb because he had known that all his life.

I do not think all people understand adoption and often mistake it for fostering. There is a vast difference between the two. Fostering is where a child is placed into a family's care and the costs are mostly subsidised by the Government. I recall that when our second child, Maree, was born, a dear old lady came up to me and said, "She is very nice, Muriel, but she is not your own flesh and blood." I replied I was happy to leave my family and my own flesh and blood and live with Rol. One hears of varying discussions on the child's right to find its biological parents, and interestingly it was Maree as a young adult in our family who requested the opportunity to meet her relinquishing parent. Twenty years ago I felt threatened by this request, but today I would not. However, Rolstun and I gave her every cooperation, and she did meet her. Possibly it satisfied both parties.

Adoption is the total care and responsibility for a child and, speaking from experience, it is deeply satisfying. One talks about the rights of a relinquishing mother and the rights of the child. I also approach this from another perspective, that there should be rights for the adoptive parents who take and love these children and share with them their hurts and their joys. Even today adoption is changing. It is far more open, and medical history is given out. Despite the exchange of medical information the adoptive parents do not always know nor are enlightened about the risk or otherwise of possible diseases. Adoptive parents of a three-year old discovered their daughter has a degenerative eye disease, a very rare condition which requires experimental and unique treatment. If it is not satisfactory the alternative will be a corneal transplant. These parents will spare absolutely nothing to ensure the child is given every opportunity to retain her sight. At this stage it is questionable whether this comes under Medicare, so it could be a very large expense as well.

In closing, as a mature woman I treasure each of my four adult children and 10 grandchildren, one of whom is adopted and a very special child. The Bill is an excellent compromise to a very difficult subject. Nothing is ever perfect, but it covers the relevant points and gives the option of a review in two years. I would sincerely hope the Opposition will support it in its entirety. I commend the legislation to the House.

HON T.G. BUTLER (East Metropolitan) [9.22 pm]: There could be no more traumatic experience than to be told by the Whips that a Bill is to be brought on and one can give a 20-minute dissertation on it. I cannot imagine any other subject being more difficult in terms of legislation than adoption.

Hon Tom Helm: I thought you volunteered!

Hon T.G. BUTLER: I have never volunteered in my life. I am very much a conscript. There are many difficult emotional issues in adoption, so it makes it very difficult to legislate for and hope to find a solution to it. I do not think anybody would believe that this Bill has all the answers, though it goes quite a way in attempting to balance out the problems. Despite that, and it may sound contradictory, there are fewer matters that would need more attention by way of legislation than adoption. This legislation has been laying around for quite a while and has taken a long time to get to where it is tonight. Hopefully it will assist us some way into the twenty-first century.

Most of us, if not all, could relate a number of stories on the question of adoption about people we know and have been involved with. It has been quite an experience to hear Hon Reg Davies and Hon Muriel Patterson talk about their own experiences, and they are indeed very lucky people. That is not necessarily the situation in every instance. There are many stories which could be recited about adoption and how it has affected people

we know in many different ways. While that might be stating the obvious, nevertheless it is the situation, and it is one subject we can all express our concern about. Hon Cheryl Davenport did a wonderful job in covering the matter as well as she did. She spoke for much longer than I have ever heard her speak but with great wisdom and affection for the subject. It is a tribute to her motivation towards a subject she holds pretty dear.

The Bill has more to do with what has happened in the past. It has more of an application retrospectively than probably for the future. It does not necessarily mean that is the sole factor for turning around attitudes. The community's attitude to unmarried mothers has changed remarkably, and the fact that single parents get Government support and that they no longer carry the same social stigma as in the past means that we will see fewer children available for adoption in the future. There were many more children available for adoption because of the social attitudes held by the community towards the unmarried biological parents of the child. It is also fairly regrettable that for quite a long time and even today, probably not anywhere near as much as in the past, there has been a sort of community scorn towards pregnant single women.

We are trying to solve some of the problems of abortion in a retrospective fashion. We are starting to see problems now that were created in the 1940s, 1950s and 1960s. Adopted children are looking to find their birth parents and relinquishing parents are attempting to find their children. There is a need for legislation to take the process of adoption into the next century. However, I do not agree that the Bill is a solution to all the problems of adoption. Because a human factor exists, we cannot legislate problems away. Legislation will not help well meaning parents who have raised an unmarried daughter's child as their own without telling the child.

Some years ago, a friend of mine found himself in a similar situation. During a fight that he was having with a person with whom he grew up believing he was his brother, the brother lashed out and told him he was illegitimate and was his sister's son. The trauma of that discovery has stayed with that person for a long time. For many years, he would not speak to his mother who he grew up believing was his sister and whom he loved unsparingly. For many years, he would not speak to his brother or any other of his relations who he believed knew that he was the illegitimate son of the person whom he believed to be his sister. His friends who knocked around with him at Victoria Park spent a long time trying to convince him that they had acted in his best interests by not telling him in the 1940s and 1950s. They were wrong in hiding the fact from him. There was always a danger that the information would come out in a fit of anger as it did on that occasion. As well, people could be talking about it behind closed doors and it could be overheard by others and relayed to the person. They did not act in his best interests or in their own best interests.

The legislation cannot do anything about that, and it is not designed to do so. Adoption presents many problems that we cannot legislate away. This legislation has been a long time coming to this point. These days, people are more liberated in their thinking, but think we should still maintain the provision in relation to an information veto. I was pleased to hear Hon Reg Davies give us the benefit of the intimacy he enjoys with his adopted son, who recognises Reg and Mrs Davies as his proper parents. It is a tribute to their approach to parenthood. I congratulate both of them on their achievements. However, on many occasions adopted children have a burning desire to know who their biological parents are and relinquishing parents want to know where their biological children are. Adopted children often want to know the circumstances that forced relinquishing parents to adopt them out. I realise that there are many people such as Hon Reg Davies' son and many relinquishing parents who are content with their lives after adoption. However, I do not know that an information veto will assist adopted persons.

Adopted children are entitled to know who their biological parents are, just as relinquishing parents are entitled to know how their children are progressing. That information should be readily available if desired by either party. Members would know of numerous cases in which adopted children have met their biological parents and it has made no difference to their relationship with their adoptive parents. Unnecessary fear has been spread about problems caused by interfering with the relationship between the

adoptive parents and the child. That is not necessarily the situation. If that does cause a problem, it would occur in a minority of cases. I could not imagine anything worse than being traumatised by the fact that I could not trace my origins if I had been an adopted child.

I am not sure of the benefit of the lack of the ethnic preference clause which was contained in the 1992 legislation. I am aware of a number of cases in which the placing of Aboriginal children with white parents has been a disaster, not because of any lack of love by the parents for the child but because the black child raised in a white family in a white society is rejected by that society. The problem is not caused by the parents or the child but by society, which is unfortunate. An ethnic preference clause is preferable in those circumstances. I am the biological grandparent of two beautiful part-Aboriginal granddaughters. My eldest son is married to a beautiful Aboriginal girl. They have been married for 12 years and have two little girls who are both very fair.

Hon E.J. Charlton: The same colouring as you.

Hon Graham Edwards: And very good natured.

Hon T.G. BUTLER: The children have very distinctive and beautiful features. The family live in Huntingdale and do all the normal things that families do - the parents go to work and the children go to school. That is the type of society in which the children are brought up. The children's maternal grandparents and aunts and uncles live in Menzies and contact with those people is limited not by choice but by distance. Contact with their mother's relatives occurs when they visit Perth, when they quite often stay with my son and his wife. To all intents and purposes, the children are white and live in suburbia growing up as whites. However, by definition, they are Aboriginal. In a preference clause, as I understand it, if anything happens to my son and his wife the two children could be taken into a lifestyle totally different from the one they have been raised in and the one they are used to. That may be an overreaction by me to that suggested provision of the Bill. It is one that has been debated from time to time and I have very mixed feelings about it. I agree with the sentiments of the preference clause. However, I would have to look very seriously at it before I felt secure with it.

I repeat that I appreciate the difficulties the legislation attempts to cover. It is a subject that we have all been affected and touched by at some time. If people have any doubts about the problems associated with adoption I refer them to a publication called *Jigsaw Pieces*, volume 14, No 7, dated November 1993, published by Jigsaw WA Incorporated. The article is by Glenys Dees and relates to the grim reality of adoption. It is a very touching story of a child who was adopted and discarded by his adopted parents and finished up on the road, was sexually abused and everything else. He decided to trace his origins and was rejected by his mother when contact was made. He was accepted by his sisters and his brother, but never accepted by his mother. He never quite came to grips with that. He died reasonably young suffering from some disability or illness.

Hon Reg Davies: It is similar to my story about an 18 year old.

Hon T.G. BUTLER: Yes. There are many stories such as this. Many people are concerned about the welfare of adopted children. It is a very difficult and complex subject. It is not one over which we can wave a legislative wand and solve all the problems associated with it. That cannot be done. We can only do our best. Perhaps we might change some sections of it during the Committee stage. I support the Bill.

HON J.A. SCOTT (South Metropolitan) [9.46 pm]: I am pleased to see this Bill before the House. There are many good points in this Bill and they are to be commended. The Government and all members who worked on it are to be commended for the hard work that has gone into it. I will mention a few things that worry me. My first criticism is the fact that the Bill has been introduced at this later stage of the parliamentary year. It has been rushed through. Hon Reg Davies and I have had little chance to consider the Bill in the depth that we would like to have done. It is a very sensitive and important Bill to very many people. I would prefer to have had more time to look at it rather than having had the second reading speech yesterday and debate today.

Had it been a money Bill or a Bill to place \$50 on a licence, we probably would have seen it more quickly.

Although there are many pleasing aspects of the Bill, two areas worry me. One is the veto. The Bill addresses that to some degree by empowering the director general to provide the means for the parties to leave messages for each other subject to any relevant information for contact veto, but that seems a little loose to me. I do not have a full understanding of the legal implications of the Bill and have not had time to look at it. A lifetime veto is of concern because people can be very worried about other people finding out the truth, and when they do find out the truth they are relieved. Hon Reg Davies' idea of having a five year limit on that veto to allow people to change their minds is a good one. It concerns me that the Bill provides for the director general to nominate four people to sit on the committee which selects the appropriate adoptive parents. The possibility exists for the committee to be loaded with male heads of department who might be very good at their job, but do not understand how families operate. An attempt should be made to have gender balance on this committee.

The Bill is a step in the right direction, but the veto provision does need further consideration. I hope that during the Committee stage the fears I have expressed will be allayed.

HON TOM HELM (Mining and Pastoral) [9.52 pm]: I congratulate Hon Cheryl Davenport on her contribution to this debate. Members witnessed first hand the trauma people suffer through their experience with the adoption process. She may have been emotional, but she clearly illustrated the emotional damage that can be caused to people by something that happened in the adoption process a long time ago.

I am an adoptive parent and my son Mark is 19 years of age. We adopted him when he was six weeks old. Like any adoptive parent I feel that he is mine and I am very proud of him. He has had his traumatic times, but he has grown into a fine young man. Hon Reg Davies said he might resent his son wanting to contact or be contacted by his birth parents. As soon as my son was able to understand we told him that we were his adoptive parents. We tried to make him a special kind of child because he was adopted and we did not want him to feel less important simply because he was not our natural child.

Hon Reg Davies: Does he speak English?

Hon TOM HELM: He has been in Australia since the age of six and he speaks English. Unfortunately, he has not been able to teach me very well!

As an adoptive parent I took the view that I would do what was best for my child. He has always known the address of his birth parents, what they did and all the other information that we have about them. If his birth parents wanted to contact him I do not think I would be resentful. However, if it were done in an insensitive way I could very well feel resentful. The only time my son has wanted to contact his birth parents is when we had an argument. The last argument I can recall was when he was about nine years old and I tied a spotted handkerchief to a pole, gave him his birth parent's address and told him to go there. The fact that his birth parents lived in England and he was in Australia did present a problem.

I feel strongly about the veto provisions in the Bill because of my experience and the experience referred to by Hon Cheryl Davenport. I also feel strongly about the provision stating that a child should be adopted by people from the same ethnic background, particularly in the case of Aboriginal people. Having lived in the Pilbara for 14 years I have experienced the trauma suffered by non-Aboriginal prospective adoptive parents who want to adopt an Aboriginal child. I believe that any prospective adoptive parents who want to care for a child should be able to do so regardless of the child's background, colour or religion. It is something that should be encouraged.

In the Pilbara I have seen the adoptive process from a different angle in the Aboriginal communities where the extended family is so important. Members have read about Aboriginal children who were taken away from their birth parents and that background

colours the view that Aboriginal people have about their children being adopted out to non-Aboriginal families. I have had personal experience of an Aboriginal child being adopted by a non-Aboriginal couple. At one stage in Karratha my neighbours, who were a delightful couple, adopted an Aboriginal child who had very little contact, if any, with his family. The child is the same age as my son and they were very good friends. However, the Aboriginal lad had a traumatic childhood because the contact with his birth parents and his extended family was negligible. I do not think it was done out of spite, but through ignorance. The adoptive parents thought they were doing the best they could for the child. I do not agree with Hon Jim Scott that the selection committee is the best way to go for those people who want to adopt an Aboriginal child.

It is timely for me to remind members of Louis St John Johnson who was murdered by three youths who are now serving time in various detention centres in this State. Bill Johnson, Louis' father, was a successful businessman in Perth and Louis was not his only child - he was one of three children. The adoptive parents thought they were doing the right thing when they travelled to Darwin to adopt Louis. He actually came from Alice Springs, but he did not know that. On the event of Louis' death they realised that while they were trying to do the right thing for him they really did not behave any better than those people who took Aboriginal children from their families in the early days and put them into institutions. Only one of those institutions was successful in bringing up those children. Aboriginal people really suffer from those days when their children were taken away from them. Because Mr and Mrs Johnson had taken Louis from his extended family, they did not realise until Louis died that he came from Alice Springs. They thought he came from Darwin, because that is where they adopted him. Louis had a happy childhood, but when he got older he started to look for his roots and for an identity. When he could not find that identity, he turned to things to which all youths can be exposed. It may be said that if Louis had not been an Aboriginal, he may not have been exposed to those dangers and may not have died in that tragic way. But Mr and Mrs Johnson do not see it that way. They believe that Louis was lost because he was not encouraged to go back to his extended family and to understand his Aboriginal traditions and background.

It has been recorded many times that children who are not given the opportunity to form an identity at an early age and who are not told that they are adopted often have a suspicion that they have brothers and sisters when it appears from their family backgrounds that they have not; and sometimes they have. At all times, there is a feeling of loss. Therefore, I cannot agree with vetoes. I believe it is offensive to hide the truth. We pay for that either through the criminal justice system or in some other way. If Mark's birth parents were to arrive at my doorstep tomorrow without any warning, perhaps I would be resentful, but I believe that in the long term, for the good of my son and for the wellbeing of his birth parents, and perhaps for the sake of his children, it would be better if we did not hide the truth from each other or from our children.

I am pleased to join this debate. I have never for one second of my life regretted adopting Mark. I have never regretted going through the trauma of getting rid of the pretence that Mark was my birth child. Mark is a handsome colt, just like me, and is very intelligent. In fact, when we brought Mark home from the home that he was in, which was in Birkenhead, across the River Mersey, the neighbours, whom we had known for four or five years, thought he was our child, even though my ex-wife had not shown any signs of pregnancy. We were so proud of Mark that we were tempted to give the impression that he was our child.

Hon T.G. Butler: He is a credit to you.

Hon TOM HELM: Yes; I am very proud of him. I feel strongly about this matter and I have raised it in the caucus room - and some members of the caucus do not necessarily share my view - but I believe that it is in the interests of not only the child but also the child's future wife and children that as the child grows into adulthood, no facts are hidden. I have a great deal of sympathy for those who have pretended that an adopted child is their birth child. I can understand that, having gone through that for a certain length of time. As soon as Mark was able to understand what I told him, I went through

the trauma of telling him that he was adopted and waiting for a reaction from him and for the day that he would pack his bags and leave us because we were not good enough to be his parents. My views, the views of my ex-wife and the views of Mark's birth parents must come second to Mark's views. There should be no veto. We should have the truth, no matter how painful it may be at the time and no matter how long it may take. The truth is the only thing that matters.

Aboriginal children who are adopted by non-Aboriginal families must have an opportunity to understand Aboriginal culture and to be exposed to their cultural ties. That is vital for their wellbeing and development.

Hon T.G. Butler: You will have no argument with me about that.

Hon TOM HELM: In the Pilbara we suffer from the trauma of children being available for adoption with the compliance of the single mother or of some sections of the extended family. When all of the considerations are taken into account, there is still a requirement that the adoptive parents take those children back to where the extended family lives, whether that be in the desert, in Broome, or wherever. It does not take much to convince prospective adoptive parents that Aboriginal children need that background and understanding so that we will have fewer Louis St John Johnsons in this world. Many children and adults of Aboriginal descent who have been denied knowledge of their backgrounds have suffered and their families have suffered. We have made that mistake and we should not make it again. However, I do not believe that people should be precluded from adopting children to whom they believe they can give a good life. I support the Bill.

HON BOB THOMAS (South West) [10.08 pm]: My comments will probably last as long as it takes Hon Nick Griffiths to return to the Chamber. Our job as legislators is to ensure that the laws of this State reflect the prevailing social mores. This Bill will replace the 1896 legislation, which was introduced at a time when social values were entirely different from what they are now. The basis of that legislation was to ensure that there was an adequate safety net of care and protection for the children of destitute women. A number of amendments were made to that legislation over time, and those of which I am most aware date back to 1983, when amendments were passed by this Parliament. As a result of that, the House established a select committee to review the Act. While the select committee was investigating the changes already made to that Act, it found some pressing issues outside its terms of reference. Those issues related primarily to relinquishing parents and the sorts of rights they felt they should have. This reflected their powerful urges to obtain information about their relinquished children, and the fact that they could not express the normal feelings of a parent. Therefore, the select committee recommended that the Act be reviewed. That review commenced in 1988. That culminated in the 1992 Bill being presented to the Parliament. However, it was introduced into the Parliament in the dying days of the 1992 session and reached the completion of the second reading stage in the Legislative Assembly. A log jam of legislation occurred and it did not progress further. The coalition Government has picked up the reins and introduced this Bill in much the same form as the 1992 Bill; however, it has made some significant changes and these aspects of this Bill need consideration.

As I said, our job is to ensure that legislation reflects the prevailing mores in our society. I am pleased to see that the Bill proposes a revocation period so that the birth parent will have some time to contemplate what action will be taken. She will undertake mandatory counselling regarding alternatives to adoption, and obtain information regarding the support facilities available to her if she wants to keep her child. That is an important improvement to the legislation with which I concur. Society has changed significantly, especially in the past couple of decades. Men are now taking far more responsibility for parenting, and much of this has come about as a result of changing gender roles within our community. Much of this stems back to the 1974 Family Court Act which took away the guilt from divorce. We have seen many more divorces in our community since that time. The number of de facto relationship has increased during that time. For this legislation to take into account the role of parents in adoptions is an important step forward. The number of de facto relationships has increased; therefore, it is good that

this legislation recognises that fact, contains a recognition of de facto couples and will allow them to adopt children through clause 39 (3).

Another step forward has been that relinquishing and adoptive parents must negotiate an adoption plan to allow for the exchange of information. This will keep the natural parents up to date with major change or occurrences in the child's life. As a natural parent, I can relate to that. I have two children aged 13 years and eight years, of whom I am extremely proud. I often look at them and say to myself, "What will they be like when they grow up?" I think about what sort of values they will have, the type of maturity they will have, whether they will be married, and have children and what their occupations will be. I can imagine that the urge of a relinquishing parent would be no less strong than mine. The parents would want to know what is happening to that child, and would want to be kept up to date. This Bill provides for an adoption plan to allow information to be passed to the relinquishing parents so that the urge is satisfied.

Some criticism has been made of the right of veto. However, the legislation is a step in the right direction. The Bill also refers to step-parent adoptions. The significance of this is outlined in the second reading speech. In 1992-93, 86 adoptions took place in Western Australia, and 52 of them were step-parent adoptions. Of the 34 other adopted children, six or eight were babies and the rest were older children. These were children with disabilities, children from overseas and children with intellectual handicaps and the like. The changes outlined in this Bill reflect the changes taking place in our community. I have spoken to people in the Department for Community Development and been told that not too long ago the majority of adopted children were new born babies. This Bill recognises the changing demography of adopted children, and will ensure that correct procedures are in place to deal with those children.

I also endorse the Bill's efforts to ensure that siblings are placed with the same prospective adoptive parents. This is very important. All of us, irrespective of our backgrounds, want to know about ourselves and where we come from. If for some reason siblings are placed for adoption, it is important at least to have that family link with their siblings so a part of their background and where they come from remains relevant and contemporary. It is important that these siblings grow up together, rather than be separated, not knowing about each other and losing a link with who they are and where they come from.

I conclude by acknowledging the work that has been done by a person who is in the Public Gallery - Glenys Dees - whom I have known for a long time. I first came across her when I worked in the Commonwealth Employment Service in Kalgoorlie. She worked out of the head office in Perth and was a senior employment officer who dealt with people who had some form of disadvantage, such as the older job seekers and long term unemployed. She would come to Kalgoorlie once every three months and we would refer to her clients whom we had difficulty placing. Glenys was one of the most diligent officers who visited the CES office in Kalgoorlie. Above all, she was able to empathise with those clients and give non-judgmental, but very relevant, feedback about them so that they could be placed in employment. Glenys has approached adoption law reform with the same alacrity; has been responsible for providing a lot of information to people, like me; has been responsible for lobbying Ministers and backbenchers alike; and has put a heck of a lot of work into this issue. The passing of the Adoption Bill will be in no small part due to the efforts of Glenys Dees. I commend her for the work she has done, and I support the Bill.

HON DOUG WENN (South West) [10.21 pm]: I support the Bill. I would like the Minister to provide an explanation of a few points, not at this stage but when I raise them during the Committee stage. At the start of the second reading speech the Minister went back in time. I do not think things have changed as much as he stated in the second reading speech. In some unprincipled countries the adoption transactions still occur. I will take up this issue later when I refer to adoption policies in other countries. The second reading speech states that adoptions did not begin until after the First World War and that in the following decades people believed that secrecy in adoption was for the best. That was the type of thinking which existed when Aboriginal children were taken

from their natural parents and put into homes and the thinking that resulted from the secrecy of the adoption process in those days. It was not the best. Without any fear of contradiction, I say that as time goes by people will say that this Bill is not the best and will seek to change the legislation.

All members in this House at one time or another would have had an experience - not necessarily a personal one - involving the adoption of children. I am most concerned with the long delays that occur when people want to adopt a child. Some friends of mine were caught up in that situation. I cannot fault them in any way, albeit that they cannot have children naturally. They are two of the nicest people I know. They had good jobs and would have been able to give any adopted children a very good life. For four years they were told by the authorities to keep applying. After that time they achieved their goal and were given a beautiful little girl. This girl has grown up having the same values as the parents. She was told from the earliest time she could understand that she was adopted, and she accepted that without any problem.

I have some concerns about the right of people to be able to find their natural parents, particularly the natural mother. I watched a midday talkback show about three months ago when I had an overnight stint in hospital. It was about relinquishing parents who had found their children. The people were interviewed and the reaction was one of absolute hatred between the child and the natural mother. There was no liking of one for the other because the children had become accustomed to their adoptive parents. They did not want to know their natural parents. The Bill sets out rules for counselling that people must undergo before the parties can meet. In the television show in some instances the people had tried to find each other after 30 years. The questions asked were, firstly, "Why did you give me up?" and secondly, "Why did you come back into my life?" I am not sure whether under the American adoption system there is a veto which would prevent contact once the natural parents have been found. I have read many good stories about the Salvation Army in Australia finding parents for children who have lost contact with their natural parents over time, and also about finding their brothers and sisters. On this American television show there did not seem to be a veto on the access to information. However, the reunion was not friendly; it was quite nasty.

Hon E.J. Charlton: The television show must have ensured that you did not stay in hospital.

Hon DOUG WENN: I did not watch much television on that occasion.

Hon Kim Chance: Hon Peter Foss buys them specially for that reason; it gets people out of hospital quickly.

Hon DOUG WENN: The second reading speech also refers to mandatory counselling. I hope that during the Committee stage the Minister will explain that a little more. I wonder whether this was a recommendation of the select committee. It appears from the way in which the provision is written that it will be enforced. The second reading speech states -

The select committee reported in October 1984 and its work led to the amendments of 1985 which gave adopted persons from the age of 18 years access to their original birth certificate subject to mandatory counselling . . .

The imposition of this provision will need to be covered by some rules and regulations. Even at this stage the parties to the adoption are going through the huge trauma of finding their natural parents or finding the child that was given up.

Hon E.J. Charlton: It simply means that the adopting parents do not receive the birth certificate without proper counselling and explanation of the background.

Hon DOUG WENN: The counselling issue concerns me for this and other reasons. A person who has been conducting the mandatory interview could believe that person was in right mind to meet the parent. However, in reality, once the meeting occurs he or she may not be of sound mind. I would like an explanation of that during the Committee stage. Understandably the adopting parents want to be secure in the knowledge they can raise their children without interference. Further in the Bill reference is made to

mandatory interviews. Once they have had those interviews is there some process of following up the eligibility of those parents to bring up the child? To what level will the authorities go before the child is taken from them? I hope that will never happen, but in this world today I understand it can happen. There should be a backup system and the children must be given as much protection as possible.

The second reading speech mentions that the Director General of the Department of Community Development must be aware of the need for counselling of birth parents who are thinking about relinquishing their children for adoption. Obviously the discussions would start with single mothers some time before the birth happened. Am I right that they are allowed 28 days in which to change their mind after they have received appropriate information to change?

Hon E.J. Charlton: Yes.

Hon DOUG WENN: If people did their sums they would see that the child would be at least 28 days old as well. We are saying the decision is final as at the day of the birth.

Hon E.J. Charlton: No.

Hon DOUG WENN: Considerable counselling goes on prior to that. A young girl of 16 or 17 might be convinced it is okay to give up the child. Twenty-eight days does not seem long enough.

Hon E.J. Charlton: She has another 28 days after that to change her mind.

Hon DOUG WENN: It does not say that.

Hon E.J. Charlton: Don't worry; just believe me!

Hon DOUG WENN: Once the child is 28 days old and that adoption paper is signed, is that not the end of it? What does the Minister consider to be sufficient time for the final decision to be made?

Hon E.J. Charlton: For some people it will be sooner than others. Fifty-six days might not be sufficient, but we must think about the child. It cannot go on indefinitely to satisfy the relinquishing parent. It is a matter of striking a balance.

Hon DOUG WENN: Does the Minister believe it will be necessary to eventually put a final time limit on it?

Hon E.J. Charlton: It is 28 days plus 28.

Hon DOUG WENN: Why would they want to take longer?

Hon E.J. Charlton: It is up to them.

Hon DOUG WENN: We can discuss it further during the Committee stage. Although I must admit some of it is classified further on in the Bill, I am concerned about the parent or guardian of a relinquishing parent. Hon Cheryl Davenport asked what if a child were 16 or 17 and homeless. Would the Department for Community Development become the guardian of that child whether the mother wants it or not?

Hon E.J. Charlton: That decision has already been made if that person is in that situation.

Hon DOUG WENN: To have the child adopted?

Hon E.J. Charlton: If the person is under 18.

Hon DOUG WENN: We do not classify a child of 16 or 17 an adult.

Hon E.J. Charlton: In that situation the parent of that girl makes the decision.

Hon DOUG WENN: Some of them have been in the streets on their own for four or five years.

Hon E.J. Charlton: If the parents of the teenager are not available, the director general makes the decision.

Hon DOUG WENN: The Bill provides that a 12 year old is able to give consent or otherwise as to whether he wants to be adopted or who can adopt him. Who will be

responsible for that? Does it come back again to the DCD? I have some concern about that. As was seen yesterday and today in the Press there is very grave concern about the children who went to certain boys' schools. I am not saying every boys' school is a bad one, but I wonder whether that is a bit too young for a child to be able to make a decision of that nature. Maybe even in that respect they would be better off in a foster situation. I am putting up these theories so that we can discuss them further in Committee.

I strongly applaud the fact that the father of the child will be able to have some part in the decision making. The second reading speech states -

... recognition of the role of fathers is an important advance in this Bill.

That is a very good provision. If we are to go down that line, where do we go if the father decides he does not want the child adopted and the mother does? Of all the provisions in the Bill, I would like to pursue that the most. There is nothing in here that resolves that issue.

There is also the issue of offences against the mother, such as rape or incest. I have heard a number of people speak about the abortion issue tonight. I am not for or against abortion; I think it is the right of a woman to decide what to do with her own body. I suppose that person would come under the welfare situation.

Other than the father relationship aspect, whether they be married or not, the other part I want to discuss is people living in homosexual or lesbian situations. How will they be treated if they apply for an adoption?

Hon Barbara Scott interjected.

Hon DOUG WENN: Under the laws today one could call that discrimination and end up with a rather massive court case. It is something the Minister might give some thought to. He might want to make a point about it during the Committee stage. In the past these people have made applications to adopt a child and on moral grounds were refused, although not always. I understand that in America such people have succeeded in adopting children. The Bill does not refer to the moral standards that are to be accepted for this issue and the rules that are to be laid down. I hope the Minister will give some thought to that. The second reading speech provides a little more understanding - not so much on the homosexual or lesbian issue - where two ladies have decided they do not want their husbands any more, and have gone into a relationship and taken their children with them. The speech states -

A second category refers to applicants who are applying to adopt a child who has been in their care for a continuous period of three or more years and an established parent-child relationship has developed.

That basically refers to a de facto system - if I wave a broad sword - because the other partner may want to become a legal parent of the child as well. Perhaps we should give a bit more thought to that matter. The Minister also refers in the second reading speech to step-parent adoptions and states that it is a major issue when children are adopted. The de facto situation also comes into that. Will the Minister clarify that part of the legislation when we move into Committee?

The point has already been made that the Government will put together an adoption applications committee, which will be required to approve prospective adoptive parents. The speech states that this type of committee has successfully operated within the Department for Community Development. The committee will comprise four members, but only one of those will be from outside the department. What sort of qualifications will that person require to be a member of a board of that nature? This will be an important committee because it will make decisions not only on the child's rights but also on the child's future. I would prefer that the committee comprise two people from the department and two outsiders, who would have a different attitude from the department. For many years the department has run down that one line, whereas outsiders with a different view may be able to put a different light on the situation. I would like the Minister to explain the statement in the second reading speech that -

This provision reflects the aim of placing the adoptive child in a family that is not markedly different from the rest of the community.

That would apply to Aboriginal adoption in particular. As Hon Tom Butler said, Aboriginal people live in a different type of community, and some of the children have real problems accepting that as they get older. They have problems not so much as children - children are very accepting and will play together with no problems - but when they become adults and start coping some abuse they become aware of the violations that have occurred against them. How did the Government determine that it could place them in areas that were markedly different from their culture, not that they would know much about it as young children? The next sentence states -

It is also consistent with the emerging trend for Australian couples to have their first child at a later age than several decades ago.

I do not know what the Minister means by that statement or why he made it. The fact that it is included in the speech leads me to ask whether those who intend to have children and who meet all the criteria will receive preference over the others? The speech further states -

As part of the assessment process, the 1992 Bill required adoptive applicants to provide evidence that they had not been found guilty, in the two years before the assessment, of an offence punishable at the time of the finding by imprisonment.

In this day and age the coalition Government is pushing hard for boot camps, and people who do not pay fines go to gaol. The offence referred to in the Bill is not a criminal offence of any nature. Some people go to gaol as a protest. Recently a chap who did not want to wear his bicycle helmet went to gaol instead of paying the fine. One would have to be careful about classifying an offence for which one should be gaoled. It seems to be a trend that if a man refuses to pay his parking infringement on principle, he is gaoled.

Hon E.J. Charlton: That is not the Government's trend.

Hon DOUG WENN: The Government's trend is to hang them. People in the Bunbury prison who have committed minor offences of that nature are taking up valuable space.

Hon E.J. Charlton: Do you want some of the people in gaol to be released? They would be in your house if everybody was outside.

Hon DOUG WENN: No; we would have a perfect world.

The second reading speech mentions other children coming into our country and people going to other countries to adopt children. After the Vietnam war quite a number of people brought in children to this country for adoption. What is the compatibility of this Bill with legislation in other countries? The Minister made the point that he would go strongly along those lines. The second reading speech also states that the Bill provides for the recognition of adoption orders made overseas. I understand that that has occurred, but to what degree is this legislation comparable to that of other countries? Some people are very determined and will do anything to get a child, which could be detrimental to a child waiting to be adopted in Western Australia. I assure the Minister that when we go into Committee I will pursue other points I wished to raise tonight. I support the Bill.

HON KIM CHANCE (Agricultural) [10.48 pm]: Earlier tonight I spoke on an issue concerning the Sunset and Mt Henry nursing homes. I said in that debate that we were dealing with one of the most sensitive issues we could have before us. It is rare on an evening such as this, when we get used to dealing with some fairly dry issues, to be dealing with two issues of extreme sensitivity. One was the care of the old and infirm. We are now dealing with adoption, which, if anything, is rather more sensitive. This legislation has enjoyed bipartisan support and I most certainly support the Bill. It has had a relatively easy run in many ways. There are differences and they have been expressed. I do not intend to drag over those coals again. However, in acknowledging those differences and the relatively smooth way in which they have been overcome in both Houses, perhaps all of us feel some shame about the way we have handled this Bill and its predecessor. I can remember acutely the time when I saw the Public Gallery in the

Legislative Assembly filled with people waiting until the early hours of the morning day after day for the previous Bill to be passed, and seeing the disappointment on their faces when the Bill ultimately fell over. We all feel some sense of shame that sometimes, for whatever reason, and I will not allocate blame to one side or the other, we fail to deliver the one thing we are paid to deliver; that is, adequate legislation. It is rare that such a complex and even contentious Bill would be without some division of matters pertaining to it. Without going over those divisions, Hon Tom Stephens exposed those differences with his usual eloquence. There are deep differences of opinion in this matter. I, for one, am delighted with the manner in which the whole of the Parliament has been able to overcome them. I am particularly grateful for the contribution made by Hon Cheryl Davenport. She showed us the depths of emotion that surround this issue. It was a timely reminder that we are dealing with the most profound emotions, and we must take the greatest care we can to ensure we do the right thing.

The question of placement of families according to their ethnic origins has had broad debate. I am not particularly convinced that the Bill provided by the Lawrence Government had all the answers; I am a little concerned that we have gone the wrong way with this Bill rather than the right way. Again, it is an extremely difficult question on which we must make a decision one way or another. I accept that the architects of this Bill have tried to take a broader view of ethnicity, and the manner in which children are placed. It is probably motivated by a higher sense of human behaviour than most of us anticipate would occur. I sincerely hope this part of the Bill works.

The Bill also raises the fundamental rights of individuals to access information about themselves. In this respect the Bill goes the wrong way, in that it places caveats on that right. I acknowledge that it is not a right that exists in isolation and, as such, no truth has the untrammelled ability to be expressed and, at one time or another, some caveat needs to be expressed. However, I wonder whether we have gone too far with that caveat. The denial of the human right of a person to learn about his past can come at great cost. It is not simply limited to unhappiness, but can be expressed in hampering a person's psychological development, and endangering a person's emotional wellbeing. The concept of information veto is raised particularly in clauses 99 to 101 and it is a key issue of the Bill. In the few words of those three clauses lies the balance of the intent of this Bill. Perhaps those clauses warrant further scrutiny in Committee, but we should be acutely aware that even the smallest change will adjust the fulcrum of this Bill because the balance lies in those three clauses. As with any balance, if the fulcrum is moved, it can make significant changes even though the movement may appear relatively small.

The Bill would never satisfy everyone's genuine hopes and aspirations in adoption matters. Some aspects of this Bill have disappointed and will disappoint some people, but that is not to say the Bill is wrong or that any side of any divergent view is wrong. People hold widely differing views because people are different, and we must acknowledge it. Sadly for us, it is not possible to legislate in a way that accommodates every view, however sincerely those views may be held and however hard we try to accommodate them. If we have an objective, it should be - in this and every other piece of legislation - to meet a set of principles to which people aspire, principles in which people believe. One such principle, particularly in this Bill, is the right of individuals to access information about themselves. I believe we should regard this as an inalienable right. The difficulty facing the Parliament is to balance that right against the rights of those who may have the desire to remain private and confidential about some aspects of their past, which may have happened when they were very young. I hope the Bill can meet the need to balance those contradictory rights, particularly as we enter the final stages of debate. The Bill is likely to be the best we can do. It is imperfect and was always going to be, but I hope it can be the means of bringing greater happiness and fulfilment to people to whom I believe we owe our attention and consideration.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [10.58 pm]: I thank members opposite who have contributed to this debate. It has been said from the outset that it is very difficult legislation to introduce and to pass through the Parliament in a manner that will satisfy the expectations, dreams, disappointments and other concerns

people have. It is difficult to satisfy the fierce desires of those people who have been through long and frustrating years with the dilemma of not having access to information they looked forward to obtaining. It is also important to recognise - members have identified this, especially Hon Cheryl Davenport - that the Bill has been 11 years in the making. Finally it is before this House in a totally new form. Everybody has acknowledged the broad political support for the Bill, not only in principle but also in the areas in which it contributes to change. Obviously, the Minister for Community Development has gone to great lengths to introduce legislation that is acceptable in its present form, although it does not please everybody. No matter what legislation comes into this place, very seldom do all members agree on all aspects. That is human nature. We are all different. Some individuals hold some things in high regard, while other people see other factors as important to them. Many members on both sides of the House, including Hon Reg Davies and Hon Jim Scott, have had discussions with a range of people, particularly relinquishing mothers and the Jigsaw movement. We have reached the stage where we all agree that the provisions of this Bill should be implemented. We agree that other matters should progress to ensure that we properly evaluate not only the concerns in the community but also the consternation expressed by members of Parliament and other people in the community who have a strong vested interest.

Hon Cheryl Davenport mentioned the role played by the previous member for Wanneroo, Jackie Watkins. We all recognise that Jackie Watkins, like many other people, has made known her personal situation and experience. Hon Cheryl Davenport also mentioned people who played a central part in bringing this Bill to this stage. Without those people we would not have reached this stage, because seldom do members of Parliament become involved in highly emotive types of legislation. Generally we leave that for another day. The Minister for Community Development wants to see this legislation come to fruition. He has given his total support to the progress of this Bill.

Hon Cheryl Davenport stated that the provisions of this Bill are almost identical to the previous Government's 1992 Bill. We acknowledge that. The member told us how adoption has touched her life. She mentioned how her personal experiences have left an indelible impression on her, on her family members and family life over the years. Family experiences have a different effect on each member of the family. People who do not experience the same personal situations cannot be expected to evaluate or understand those experiences. My philosophy in life has always been that we cannot attempt to establish how people feel unless we are prepared to put ourselves in the same position. Many people have experienced tragedies in their lives but other people cannot understand until they are placed in a similar situation. Members have expressed their personal points of view and experiences and we cannot attempt to understand those personal situations without experiencing them.

Hon Cheryl Davenport referred to Aboriginal and other ethnic people, their role in life, and that they consider this Bill does not properly cater for their circumstances. Rightly or wrongly, the Government has decided that it is time to try to address those special requirements related to the significant differences between people - not by making provision in the legislation but through the mechanisms of the department; that is, through the officers charged with the responsibility to handle adoptions in future. They will take many aspects into consideration and make a decision resulting in a child being placed in an appropriate environment. A decision will be made not simply on the basis of whether a child is an Aboriginal. An Aboriginal child could be placed with an Aboriginal family, but if the child is from the north of the State and the adoptive parents are from this part of the State they may not have much in common. The child may have more in common with parents who live a similar lifestyle even though they have different cultures. Many aspects must be considered, apart from that type of relationship. That is the reason the Minister for Community Development has decided to take a broad approach, to have flexibility, to achieve the best results without limitations being placed on people as a result of particular backgrounds.

Hon Cheryl Davenport referred to the veto situation. She spoke about the retrospective

aspects of the Bill. We are talking about a range of situations. We are talking about future adoptions but we are also aware that people can be affected by the past. That is why it is so difficult to cater for everyone. I would like to see a situation where every adoptee is able to obtain information. I know that the Minister wants to see that as well, but we must strike a balance. Hon Reg Davies put the opposite argument.

I have here a letter written to the Minister for Community Development. The writer of the letter could not live with a situation that would stir up the past. Many members agree that this legislation is all about striking a balance, and that is always a difficult proposition. As stated by Hon Cheryl Davenport, the prime concern is the child. We all agree on that point. The important factor is that the child will not remain a child. Children grow up and more than likely become mothers or fathers; they become part of a family. We must consider that aspect when talking about the interests of the child. The retrospectivity provisions have been addressed by the comments by members; no-one is saying that these provisions are the best and most appropriate way to deal with the matter in the long term. This is a major step forward. Everyone acknowledges that but as with most matters in life, if we progress slowly we will get it right. That is the better way to go rather than rushing and getting it wrong.

As a result of this Bill 320 relinquishing mothers will have the opportunity to reconsider the veto on information and contact. They will be given the opportunity, before deciding to continue that veto, to consult with the departmental officers and go through the options available to them and, hopefully, out of that, those people who currently have a veto in place might agree there is no need for it. For those who feel the need to continue the veto, the adoptee who wishes to seek that information will have an opportunity for an outreach to be made to see whether that information could be made available. Those people who are concerned about cases where the birth parent maintains the information veto are right: It is hard, and it is not an acceptable situation. But to try to overcome it in this first major step would lose the balance in the legislation because we would create great heartache for somebody else that could possibly destroy another family. We have taken that into consideration and that is the basis of the legislation as it stands.

Hon Cheryl Davenport asked a number of questions about the operations of a number of aspects of the Bill. She commented on the supporting affidavit which is required if the birth parent is under 18 years of age. Currently the Adoption of Children Rules 1970, clause 13(c), requires an affidavit from a parent, guardian or near relative or, if that is not possible, an affidavit sworn by a responsible and competent person. There is a need to establish guidelines to indicate the importance of ensuring that a person is an adult when making the decision. For birth parents under 18 years it seems reasonable to seek the attendance and support of the natural parent of the birth parent. As I mentioned to Hon Doug Wenn, the clause is not meant to be an obstacle to birth parents and if there is a breakdown in the relationship between the parents and their child the director general can provide the affidavit. That will ensure that a girl who is under 18 has an authority forthcoming.

Hon Cheryl Davenport also raised the question of taking a child into care and protection where a birth parent consistently consents to the adoption and then revokes that consent. The meaning of "persistently" will depend on the circumstances of individual cases. There is no black and white description.

Hon Cheryl Davenport: There will be flexibility.

Hon E.J. CHARLTON: It will be dealt with on an individual basis. Like so many aspects of the adoption procedure, each situation is considered as it arises rather than reverting to the law and some legal situation. As in all child welfare and protection applications, the circumstances of each case need to be considered separately. That is the basis of that persistent contact clause.

Hon Cheryl Davenport mentioned the special provisions which will allow the court to dispense with a father's consent. Clause 24 allows for adoption consent by birth parents to be dispensed with. Subclause (1)(e) states that consent can be dispensed with by the court where the person who is the child's father has been convicted of an offence and the

court is satisfied that the child's conception resulted from an offence. Those situations need to be taken into account to ensure that the special provisions will apply. They will apply where compensation has been awarded to the child's mother under the Criminal Injuries Compensation Act for an alleged offence within the meaning of that Act committed by a person and the court is satisfied that the child's conception resulted from an offence or alleged offences where the father is a relative of the child's mother - in other words, incest.

Hon Cheryl Davenport mentioned mediation by the director general in order to vary the adoption plan. Flexibility to have variations in the adoption plan is necessary to allow for changes in personal circumstances of the adoption parties. The mediation process will require adoption parties to engage in a process with departmental staff to try to reach a compromise on the proposed variation. Departmental staff will be required to negotiate an agreed position for all parties. Parties must undergo this mediation process before they can apply to the court for a variation of the plan. Again, we are trying to keep it out of the court and to work things out in a congenial manner. The process will reduce the court processes and unnecessary and inappropriate applications to the court to seek that variation. People would not want to finish up in court in those circumstances if they could avoid it.

Hon Reg Davies asked about definitions in the interpretation clause. That is required for legal purposes to facilitate the effective operation of the Act. The definition of a mother and both parents and adoptive parents is in the interpretation section merely as legal definitions. They are not put there to take the place of anybody or for any other reason.

Hon Cheryl Davenport asked about the number of children placed for adoption with approved applicants and asked about the remaining 32 children. There were 14 unrelated local children and 18 overseas adoptions. If the member wants any further information I can get that for her.

Hon Cheryl Davenport: I was interested whether in that group they were newborn babies or older.

Hon E.J. CHARLTON: I understand there were six babies, but I will check that for the member during the Committee stage.

Hon Cheryl Davenport touched on some other aspects which related to adult adoptions. A whole range of options is available across the board now. The thrust of the legislation is to cater for people involved in fostering or caring who decide to adopt later on. Although private adoption agencies have not been established, this is provided for in the Bill to meet those specific conditions in case that option wants to be pursued in the future.

Hon Cheryl Davenport: I have no difficulty with the criteria that are there, although I do not think there will be such a number of children to warrant a private adoption agency.

Hon E.J. CHARLTON: That is right. With the numbers that have been quoted in the last year or two there is not a great need for it, but with that provision in the legislation at least the Act will not have to be brought back.

Hon Cheryl Davenport also indicated that she would not be moving amendments during the Committee stage but that following the completion of the passage of this Bill would moving that clauses 99, 100 and 101 and the schedules thereto go to the Legislation Committee to ensure that consultation can take place with people who would like to see changes made to the legislation sooner rather than later. As has been indicated to Hon Cheryl Davenport privately, the Government supports that proposition. That will enhance not only the points she and other members have raised but give an opportunity for people to make comments, which will be a bonus leading up to the review in two years' time. The Minister responsible for the introduction of this Bill has shown a broad outlook by supporting that and ensuring we have these ongoing discussions.

Hon Reg Davies gave us his personal experience and touched on the question of retrospectivity of the Bill. We are all aware of that, not just in this legislation but in other legislation, and no more does it have an effect than on a family involved in adoption. He

also mentioned the legal aspects of the interpretation and commented on new rules being brought in which are different from those to which people were subject in the first place. That is obviously why the Government sought to have the conditions apply. While making changes for the future, the Government could not walk away from agreements entered into in years gone by. He also wanted to know who had the right and responsibility. I concur with his comments that adoptive parents are responsible for their child, and that is the way it will continue to be. While flexibility given for contact has opened this up, which will make it difficult at times in the future, against that would be a closed door situation which is not acceptable to our society. I answered the question about the 28-day period when I made comments to Hon Doug Wenn.

Hon Tom Stephens spent nearly all his time commenting on both the Aboriginal aspect and abortion. I totally agree with his comments regarding abortion, but it is a personal position. People keep talking about the rights of the child when it is born. We must ensure that the child is given every opportunity to be placed in the best home. On the other hand, when we are considering a pregnancy it is not right to consider that the unborn child does not count. This sort of discussion will go on long after all of us are out of this place. This is not the time or place to sort that out, but if we are to progress as a society there must be respect for life. Too often in this day and age there is not enough respect for human life.

Hon Kim Chance: Kierath doesn't have not a lot, does he?

Hon E.J. CHARLTON: We all have our beliefs, and in this nation we should respect people for what they believe. I concur with Hon Tom Stephens, but at the same time I do not agree with his comments about the Aboriginal position, which is already addressed in the Bill.

Hon Muriel Patterson spoke about her family. I felt a bit out in the cold. I have been called a few things in my life which have implied that I probably did not have a father.

Hon Mark Nevill: Have you ever seen your birth certificate?

Hon E.J. CHARLTON: I have. My parents were nice, but I must have been a throwback to some convict.

Several members interjected.

The PRESIDENT: Order! The Minister is trying to wind up his comments.

Hon E.J. CHARLTON: Hon Muriel Patterson's comments about her dealings with her family and her four children were obviously tremendously sensitive. They give the other side of the equation. Hon Tom Butler gave another dimension to the relationships of people from other cultures, as did Hon Muriel Patterson.

I have touched on the veto that Hon Jim Scott and Hon Tom Helm raised. Hon Tom Helm also gave us an insight into happenings that took place in Birkenhead long ago and the fact that he had a son who was beautiful - just like him! I hope he grows up to be even better. Those comments though were taken with the seriousness with which they were put. Hon Bob Thomas and Hon Doug Wenn touched on a range of matters that were mentioned earlier by other members.

Finally, Hon Kim Chance spoke of the dissatisfaction and disappointment of people when the other Bill was so close to being enacted and fell by the wayside. Everybody agrees with that. The good point is that at least we have a Bill before the Parliament. Earlier, I informed the House of the ongoing commitment of the Government in respect of this legislation. The Minister in the other place and the department are dedicated to the cause of ensuring that we get the very best at the end of the day. Nobody is saying that we have a mortgage on what is right or on good ideas, but we have a commitment to ensure that the best happens for everybody as soon as we can make it happen, remembering that we must achieve a balance. Hon Kim Chance commented that there had to be a balance in this legislation. He also mentioned a number of matters that other members canvassed.

This is a significant Bill. Some members still have some doubts about the future of the

legislation. However, behind the scenes the Minister responsible in the other place, Hon Cheryl Davenport and the Opposition have agreed to send the Bill to the legislation review committee at the conclusion of its passage through this House, which will ensure that the views of everyone will be taken on board.

I thank members for their contributions.

Question put and passed.

Bill read a second time.

Committee

The Chairman of Committees (Hon Barry House) in the Chair; Hon E.J. Charlton (Minister for Transport) in charge of the Bill.

Clause 1: Short title -

Hon CHERYL DAVENPORT: The Opposition is concerned that there has been no attempt to legislate to accommodate the recommendations of the Adoption Legislative Review Committee on Aboriginal child placement. Although the Opposition does not intend to pursue an amendment which was moved in the other place, we have some concerns about it. We are mindful that a review clause is in place. Presumably it will be part of the terms of reference of the review to look at those issues. I am well aware that the department's policy and practice is to try to place Aboriginal children with appropriate Aboriginal families. I am sure that it will continue to do that. The Adoption Legislative Review Committee, which spent a long time in its deliberations and consulted thoroughly with Aboriginal people within various communities on the issue, suggested that we should include in the legislation provisions dealing with the placement of Aboriginal children. I am sorry that the Government has not taken that initiative. However, I am mindful that the review clause will provide some capacity to see whether the legislation needs to be strengthened in the future.

Hon E.J. CHARLTON: I confirm to the member that a commitment was given in the second reading debate about the placement to which she referred. Although that is not totally satisfactory from her point of view, there is that dedication to ensure that the placement occurs. For the record, in the last five years only four Aboriginal children have come forward for adoption. That is why the Government has focused in the way that it has with the commitment regarding the placement program.

Clause put and passed.

Clauses 2 to 146 put and passed.

Schedules 1 to 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon E.J. Charlton (Minister for Transport), and passed.

MOTION - ADOPTION ACT

Referral to Standing Committee on Legislation

HON CHERYL DAVENPORT (South Metropolitan) [11.40 pm]: I move -

That the Adoption Act 1994 be referred to the Standing Committee on Legislation for the purpose of considering division 4 of part 3 and schedule 3.

I have moved in this way after having consulted with the Minister in this place, the Leader of the House and also the Minister in another place. My concern and the Opposition's concern was expressed in the second reading debate and the Committee stage within the Legislative Assembly and also in this House. The difficulty we envisage

relates to information and contact vetoes and the potential for lifetime vetoes. What we sought to do was to take the specific clause that deals with contact and information vetoes and the parts of schedule 3 that deal with retrospectivity of the Adoption Act and look at that in a situation outside this place and outside the politics that occur here. We can consult with the groups that have grave concerns about this. We can hear from the department officials their perspective on the sections of the Act. We can also talk to people who have concerns from the other side of the equation who seek to have those vetoes put in place.

In moving this motion, I express my thanks to the three Ministers to whom I spoke. I hope that there will be no problems and that the review process, when it comes up in a couple of years time, will also have further things to consider. It may be that the Legislation Committee will identify some grave miscarriages of justice - indeed, some potential breaches of human rights that could exist for adoptees in relation to these contact and information vetoes. I envisage that we will probably not need too much time, although I am mindful that I have loaded my colleagues who are my fellow members of the Legislation Committee with more work, and I apologise to them for that. However, this referral could bring about amendments of which we can all be very proud as legislators. This social law reform issue has been a long time coming, and to spend a little more time to see whether we can make it even better will, I believe, be worthwhile in the long term.

HON E.J. CHARLTON (Agricultural - Minister for Transport) [11.44 pm]: I confirm that we have indicated our support for this and look forward to Hon Cheryl Davenport's expectations being fulfilled.

Question put and passed.

STATEMENT - MINISTER FOR TRANSPORT

Newton, Mark, and Stateships' Operations, Answers to Questions

HON E.J. CHARLTON (Agricultural - Minister for Transport) [11.45 pm] - by leave: During question time today Hon John Halden sought my confirmation of a statement in the *Daily Commercial News* regarding conflict of interest if the company belonging to Mr Mark Newton ended up forming part of a consortium that would eventually run Stateships. My answer was that I had had no discussions with the *Daily Commercial News*. I was not aware of the article referred to. I did ask the Leader of the Opposition after question time if I could see the article and he has made it available to me. I gave the answer I did simply because I received two messages yesterday from DCN News requesting me to contact it, which I did not do. That is why I answered that no discussions had taken place. Having seen the article I realise it refers to discussions I had with another reporter from that paper some 10 days ago, certainly before Easter. I do not know when this was printed, but having now seen the article I can say that I did speak to DCN some days ago regarding the question of conflict.

I stand by the fact that I do not see a conflict in the hypothetical situation that that may occur if there is a consortium. This is a hypothetical situation because I and no-one else would know at this stage whether there will be a consortium and in what form it will take. It gets back to an answer I gave to a question or questions last week regarding a fax. This matter is all related to a fax from South East Asia. It concerned a statement by an agent of Stateships to whom Mark Newton had supposedly commented. I answered a question on this matter from Hon Mark Nevill yesterday. Mr Newton has said categorically that he did not indicate that at all. He had spoken about what would be the situation of the agents and the importers in South East Asia if a whole range of scenarios took place. That is why the agent sent that fax. A whole range of options and circumstantial possibilities may or may not occur if Asiaworld Shipping Services, of which Mr Newton is a principal, comes up with a proposition. As I have said in answer to other questions previously, everyone else who put in an expression of interest and who is now receiving further update and contact has also had as much access to all of Stateships' information as they require. It is an open house as far as we are concerned. We want to give them as much information as possible because we are looking forward

to their submitting a proposition that will save the taxpayers of Western Australia some money.

That is all I wanted to say. I did not want to indicate to the Leader of the Opposition that I did not want to answer his questions. I thought the immediate position was that he must have been referring to some information he received about Wiggie Lovell, the lady who called me twice yesterday seeking comment for DCN.

ACTS AMENDMENT (OFFICIAL CORRUPTION COMMISSION) BILL

Second Reading

Debate resumed from an earlier stage of the sitting.

HON A.J.G. MacTIERNAN (East Metropolitan) [11.50 pm]: I thank the Leader of the House for the reasonable and cooperative approach he has taken to the debate on this Bill. The Opposition was given the opportunity to consider the amendments which were delivered after the Opposition had commenced its contribution to the second reading debate. A series of amendments have been presented and the Opposition will, where necessary, deal with them in detail at the Committee stage. The Opposition suspected that some of the amendments would require addressing in the second reading debate because they go to the general concerns the Opposition has about the context of this legislation.

A number of amendments have the effect of changing the reference in the Bill from a joint standing committee to a standing committee of either House of Parliament. The Government certainly has not given the commitment the Opposition was looking for; that is, that the committee would be an integral part of the select committee's recommendations. Instead of that, the limited provisions of the Bill relating to that committee have been weakened. The amendments give an insight into the Government's attitude to this legislation. It is obvious from this eleventh hour change that the Government gave very little thought to the mechanisms that would operate when it first introduced the Bill. It is something the Government cobbled together to give the appearance that it was taking some action. The Government's attitude is pervading its failure to review the recommendations in the light of the royal commission's recommendations. The Opposition can only imagine that the Government has become somewhat embarrassed by its lack of commitment to establishing this very vital committee and that it has been dragged into action to do so. The Government is seeking to emasculate the select committee's recommendation by providing an option for a single House committee, answerable only to that House. It will not be a committee of the Parliament as it should be. The Opposition can only suggest that the Government's experience is that it is easier to control a single House committee.

Obviously it is the Government's intention to minimise scrutiny. It is certainly not its intention to provide a better mechanism for checking corruption in Government. Of course, that is not surprising if one reads the obnoxious and misguided passages in the Minister's second reading speech with respect to the Commission on Government. This Government believes there is no need for any structural reform in relation to accountability and corruption - now that the boys from the western suburbs are back at the helm, God can rest in his heaven and all is right. Surely they are not quite so gross as to believe they can thrust that line in the face of the public. We have another example of this Government going through the motion of providing the structures required for scrutiny and a check on Executive power that formed part of the royal commission's recommendation. The Opposition has dealt with the question of a need for a joint standing committee to oversee the operations of the Official Corruption Commission and it has discussed the Attorney General's comments in this regard. I failed to bring to the attention of the House earlier today the degree to which the Government's position has been exposed as pure, candid hypocrisy by the provisions of the Commission on Government Bill. The Attorney General and her colleagues in the other place have bleated that it is up to the Parliament to determine whether a committee will be formed. Nevertheless, the Commission on Government Bill provides the possibility for the

Government to make a commitment on the formation of a joint standing committee. That Bill not only states that a joint committee of both Houses of Parliament is to be established for the purposes of that legislation, but also sets out in great detail the functions of such a committee. The protestations of the Attorney General and other Government members have not had any credibility to date; they have even less credibility now because they have been more exposed by the comparisons between this legislation and the Commission on Government legislation.

Other amendments which have been presented by the Government relate to the Director of Public Prosecutions. The Opposition has no problem with the substance of those amendments because they seek to make the reporting provisions relating to the DPP more appropriate to the nature of his office. However, the need to introduce this amendment highlights one of the problems that is faced around Australia with the plethora of investigative bodies; that is, the rival ambitions of these various bodies. The overlapping of the jurisdictions can cause conflict. Some of the organisations, by giving effect to their rivalry, act in ways that go beyond the powers intended for them. Once again, that brings us back to the need for a supervisory committee. The committee has a role in monitoring these conflicts. It certainly was a matter that was given considerable consideration in the select committee's deliberations.

I have a question to ask of the Minister and I hope that he will provide an explanation before the Bill is debated in Committee. I must admit that I was intrigued by the additions proposed -

Hon Peter Foss interjected.

Hon A.J.G. MacTIERNAN: I am not sure about the connection between corruption and bird poo. We certainly look forward to the Minister's explanation of why we are adding these provisions to our definition of official corruption.

Hon Peter Foss: You do not have much acquaintance with guano.

Hon A.J.G. MacTIERNAN: I have been to Christmas Island. The collection or removal of guano from any part of the territorial domain of Western Australia without lawful authority can now be considered by the Official Corruption Commission. There may well be good reason for that provision. It is certainly not obvious, but no doubt we will get an explanation of that. In the eyes of the Government, there also appears to be a problem with cattle rustling. A person who is caught with brands or marks, with the intention of facilitating the commission of a crime, is guilty of a misdemeanour. Perhaps this relates to the export of meat and conduct by meat inspectors, but again it is a curious addition to the activities of the Official Corruption Commission. We look forward to seeing why cattle rustling and dealing with bird poo will be added to the already onerous responsibilities of the Official Corruption Commission.

Hon Peter Foss interjected.

The PRESIDENT: Order! Stop interrupting the member's concluding comments.

Hon A.J.G. MacTIERNAN: I hope that does not signify that the President is getting bored with the debate or suggesting that I finish. Great minds think alike, and I am winding up. These amendments, as we thought would be the case, do not ameliorate any of the concerns which we outlined during the second reading debate. Indeed, they provide further evidence about the bona fides of the Government in regard to this legislation, and in regard to all pieces of legislation which concern honesty and integrity in government.

Debate adjourned, on motion by Hon N.D. Griffiths.

MOTOR VEHICLE (THIRD PARTY INSURANCE) AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by Hon Max Evans (Minister for Finance), read a first time.

Second Reading

HON MAX EVANS (North Metropolitan - Minister for Finance) [12.05 am]: I move -

That the Bill be now read a second time.

This Bill is introduced to ensure a reduction in the compulsory third party insurance premiums paid by more than one million Western Australian motorists. In conjunction with the \$50 premium levy, introduced on 1 August 1993 and approved to fund the \$300m shortfall existing in the fund, these initiatives will re-establish the long term financial viability of the third party insurance fund. In accordance with the Premier's announcement on 29 June 1993, the amendments introduced by this Bill will apply to all accidents which have occurred after 30 June 1993.

This Bill, which amends the Motor Vehicle (Third Party Insurance) Act 1943, seeks to reduce the cost of administering the third party insurance system by restricting claims for non-pecuniary loss, through the introduction of a threshold/deductible and capping. These amendments are necessary because of demands placed on the compulsory third party system in Western Australia by injured parties and the legal profession. The major problem is that there has been a large increase in the number of cases in which general damages have been awarded for minor injuries such as bruising, lacerations and, in particular, minor soft tissue whiplash injuries.

The \$50 premium levy was approved to fund the \$300m shortfall currently existing in the fund. However, a disproportionate number of small claims continues to impact on the third party insurance fund and has created a serious imbalance in the system. This must be corrected to abate any further escalation in premium costs. Without the amendments sought to be introduced by this Bill, a further premium increase in compulsory third party insurance is forecast from July 1994, when the premium for a private motor vehicle is projected to increase by approximately 10 per cent, and this is projected to increase further by 1 July 1998 to such an extent that premiums may exceed \$300 per annum. The objective is to maintain and reduce the costs of compulsory third party insurance premiums to Western Australian motorists and industry. These premiums have risen in the past due to an escalation in the average costs of claims, which has occurred for the reasons outlined above. Over the past four years, average claims costs have increased by 53 per cent.

There is no doubt that seriously and significantly injured motor accident victims should be well compensated, and this will continue to be the case. However, in order to provide such compensation, people who receive minor injuries are required to forgo some compensation so that the system can protect those whose lives are seriously affected by the tragedy of a motor vehicle accident. As stated, the problem in relation to the multitude of small claims has been compounded by unrealistic expectations of plaintiffs and by a small number of lawyers who have actively promoted and encouraged claims from people who have received minor or relatively insignificant injuries. Both plaintiffs and these lawyers have placed unrealistic demands on the compensation system resulting in payment of substantial sums of money for inflated minor claims. Notwithstanding comments to the contrary, the system does not discriminate because the proposed limits will apply to all claimants regardless of their financial position.

This Bill seeks to introduce a \$10 000 threshold/deductible for non-pecuniary damages up to an amount of \$30 000, diminishing to zero for awards at \$40 000. It also proposes to cap non-pecuniary damages at \$200 000. Both the \$10 000 threshold/deductible and \$200 000 cap have been indexed to wage inflation. The Bill only seeks to reduce claim costs in relation to non-pecuniary loss. Non-pecuniary loss is defined by the Bill to be pain and suffering; loss of amenities of life; loss of enjoyment of life; curtailment of expectation of life; and bodily or mental harm. The Bill does not place any threshold or limit on the amount of pecuniary loss or the total amount of damages which may generally be awarded to a person in a motor accident. These amendments do not change any existing sections of the Motor Vehicle (Third Party Insurance) Act, with the exception of the long title, and they are inserted as additional sections.

The limitations imposed by the Bill apply not only to the injured person but also to any other person who may have a claim to damages. For example, the threshold and capping limits will apply to people who have a claim for nervous shock which is occasioned by witnessing an accident.

The Bill inserts new sections 3A to 3D and section 27A into the Act. Sections 3A to 3D are based on sections 72, 79 and 80 of the Motor Accidents Act 1988 of New South Wales. It is intended that the courts in Western Australia should interpret phrases used in the new sections by reference to existing New South Wales case law. It is noteworthy that the proposed threshold is lower than those presently in operation in New South Wales at \$17 500 and Victoria at \$29 860.

The Bill culminates the entitlement to non-pecuniary damages if the amount for this is assessed to be \$10 000 or less. Damages assessed at more than \$10 000 but not more than \$30 000 will be subjected to a \$10 000 deductible. The deductible reduces by \$1 000 for every \$1 000 awarded over \$30 000 up to \$40 000 at which point a deductible will not apply. This reduction is proportional to the amount assessed between these sums. The changes also include an upper limit cap of \$200 000. To the best of my knowledge, no award in Western Australia has exceeded \$200 000 for the non-pecuniary component. The \$10 000 and \$200 000 amounts are indexed to the weighted average minimum award rate for adult males under Western Australian State awards.

I stress that the proposed restrictions do not apply to past and future medical or hospital expenses; loss of earnings; care costs - except gratuitous care under \$5 000; travelling expenses; medication costs; aids and appliance costs; and out of pocket expenses. The Bill provides that no damages will be awarded for services by family members if these services would have been provided free regardless of the injury. Damages are available for such services on the principles set out by the High Court in the case of Griffiths v Kerkemeyer. This amendment provides for the following limits on such damages -

To average weekly earnings for services of 40 or more hours per week;

to the hourly rate based on average weekly earnings for services of less than 40 hours a week; and

no damages if the damages would otherwise be \$5 000 or less.

The threshold does not apply if paid home help or nursing services are incurred and the criteria for establishing a successful claim within common law principles are satisfied. History shows that claims for gratuitous services have been used to inflate damages for frivolous claims. The amendments do not apply to damages for death, as courts do not award damages for non-pecuniary loss in respect of death. Awards for damages for fatal accidents are governed by the Fatal Accidents Act.

Motor vehicle injury claims involve individuals who may have no previous experience of the legal system. Although the Government supports the principles of the free market, including free and open competition between lawyers, it recognises that costs are one area of law where some measure of consumer protection is required. Therefore, once the Bill receives Royal assent, the new section 27A makes it illegal - in respect of actions for damages resulting from death or bodily injury to a person directly caused by, or by the driving of, a motor vehicle - for lawyers to charge their clients an amount greater than that determined by the legal costs committee. This section provides that if lawyers enter into costs agreements which provide for remuneration in excess of that determined by the legal costs committee, that costs agreement is void and any money paid under it is recoverable by the person who paid it.

As can be seen, the effect of these changes is to help balance the compensation system through amendments that will provide a financial benefit to a broad range of Western Australians and at the same time retain an affordable and equitable compulsory third party insurance system.

I commend the Bill to the House.

Debate adjourned, on motion by Hon Mark Nevill.

BILLS (2) - THIRD READING

1. Pilbara Energy Project Agreement Bill
2. Iron Ore (Mount Newman) Agreement Amendment Bill

Bills read a third time, on motions by Hon George Cash (Leader of the House), and passed.

House adjourned at 12.15 am (Thursday)

QUESTIONS ON NOTICE

MIGRANT CHILDREN - FROM UNITED KINGDOM, FINGERPRINTING

1564. Hon CHERYL DAVENPORT to the Leader of the House representing the Minister for Police:

- (1) Did the Under Secretary for Lands and Immigration request, in a letter dated 17 September 1947, the Commissioner of Police to make arrangements to have child migrants from the United Kingdom arriving in the ship *Austurias* fingerprinted?
- (2) Did the under secretary indicate that approval was extended by the Minister for Lands and Immigration for the fingerprinting?
- (3) Do records show that the fingerprinting occurred?
- (4) If so, how many migrant children were fingerprinted from the ship *Austurias*?
- (5) Are records available which indicate child migrants arriving in other ships were fingerprinted?
- (6) If fingerprinting occurred, who kept the prints, for what purpose were they used, and where are they now?
- (7) Will the Minister advise whether it was Government policy at the time to fingerprint all adult migrants on arrival in Australia?

Hon GEORGE CASH replied:

The Minister for Police has provided the following reply -

I am advised by the Commissioner of Police as follows -

- (1) No records are available within the Western Australian Police Department dealing with the subject matter.
- (2) Not known.
- (3) Not applicable.
- (4)-(5) Not known.
- (6) Not applicable.
- (7) Not known.

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

1593. Hon JOHN HALDEN to the Minister for Education:

- (1) Who is the Chairman of the Agricultural Education and Training Advisory Council?
- (2) What is the term of the appointment of the chairman?
- (3) Who are the committee members of the Agricultural Education and Training Advisory Council?
- (4) What are the terms of appointment of each member?
- (5) By whom was each person nominated?
- (6) What remuneration is paid to each member and the chairman?
- (7) When was each member first appointed?

Hon N.F. MOORE replied:

(1)-(7)

The Agricultural Education and Training Advisory Council is no longer in existence. The council was chaired by Irwin Barrett-Lennard and undertook a review of agricultural education. The council's work was

completed when the section of their report on the Northern Regions was delivered to the Minister for Education and Aboriginal Affairs, Dr Carmen Lawrence, on 22 January 1990. The Government currently has an advisory committee, established in 1992, called the Agricultural Education Schools and Colleges Advisory Committee, chaired by Mr Peter Frizzell, Executive Director (Schools), Education Department of Western Australia. Members of the committee are nominated by the organisations they represent, are appointed for a three year term and do not receive any remuneration for service. Attached is a list of committee members, with an indication of the organisations which they represent.

Agricultural Education Schools and Colleges Advisory Committee

Mr Peter Frizzell, Executive Director (Schools), Chairperson, Education Department of WA, representative.

Mr Kingsley Waterhouse, TAFE, representative.

Mr J. Bradshaw, Agricultural Advisory Committee, Gnowangerup, representative.

Mr J. Pullbrook, Agricultural Advisory Committee, Morawa, representative.

Mr Rodney Field, WA Farmers Federation and Agricultural and Pastoral Industry, Education and Training Council, representative.

Mr Julian Krieg, Coordinator Agricultural Education, EDWA, representative.

Mr George Wittorff, Agricultural Colleges Principals, representative.

Mr Terry Redman, Agricultural Educators Association, representative.

Mr P. Trefort, Agricultural Advisory Committee, Narrogin, representative.

Mrs J. Foulkes-Taylor, Pastoralists and Graziers Education Committee, representative.

Mr Ian Eckersley, Agricultural Advisory Committee, Harvey, representative.

Mr Steve Kitching, Consultant Agricultural Curriculum EDWA, representative.

SCHOOLS - CLOSURE

Minister's Media Statement, Cost

1622. Hon N.D. GRIFFITHS to the Minister for Education:

What was the financial cost to the Government of the distribution of the Minister's media statement dated 7 March 1994 dealing with the issue of closure of Western Australian schools?

Hon N.F. MOORE replied:

The media statement was distributed on two local facsimile runs - 35 numbers - and one country run - 19 numbers. It costs 25¢ per minute for local calls and, depending on distance, 25¢ to 50¢ per minute for country calls. As the two page statement took about 30 seconds to send, this brought the total cost to approximately \$16.95.

EDUCATION DEPARTMENT - CHILDREN WITH LEARNING DISABILITIES, STATEWIDE SCREENING PROPOSAL; ADDITIONAL TEACHERS EMPLOYMENT

1688. Hon JOHN HALDEN to the Minister for Education:

- (1) Does the Government propose to introduce Statewide screening to detect hidden learning disabilities in children?

- (2) How many additional teachers specially trained in learning disabilities were employed in 1993 and 1994?
- (3) How much additional money was directed to programs for gifted and talented students in the 1993-94 budget?

Hon N.F. MOORE replied:

- (1) The Government does not propose to introduce Statewide screening of every child to detect hidden learning disabilities. Neither the Shean report nor the ministerial statement recommended that the learning capabilities of all children entering primary school should be tested.

Teachers currently use many effective methods to identify students with special learning needs. The Education Department will examine a variety of early identification methods, which can be used by teachers, such as observations, teacher tests, consultation with school psychologists and interviews with parents.

- (2) 1993 - 13; 1994 - 9.
- (3) None.

**LAND - LOT 401 LA PEROUSE COURT, FRENCHMANS BAY, ALBANY,
REZONING APPLICATION**

1720. Hon BOB THOMAS to the Minister for Health representing the Minister for Planning:

Why is the Minister preventing public access to the coastal impact assessment relating to the application to rezone lot 401 La Perouse Court, Frenchmans Bay, when the State Government's country coastal planning policy states: "The State's concern with coastal planning and management is not one of purely environmental management. Substantial financial costs are incurred when environmental processes are ignored and it is the State Government's responsibility to reduce these costs, and the ultimate burden on the taxpayer, through wise use of land"?

Hon PETER FOSS replied:

The Minister for Planning has provided the following response -

The coastal impact assessment has been made available to the Shire of Albany.

**LAND - LOT 401 LA PEROUSE COURT, FRENCHMANS BAY, ALBANY,
REZONING APPLICATION**

1723. Hon BOB THOMAS to the Minister for Health representing the Minister for Planning:

- (1) In regard to the proposal to develop lot 401 Frenchmans Bay, Albany, has the Minister consulted with the Minister for the Environment, and if so, what agreement was reached with him which allowed the Minister for the Environment to decide that the proposal may be implemented?
- (2) Has the Minister at any time received any information, advice and/or recommendations from within his department inconsistent with either the agreement reached with the Minister for the Environment or the Minister's decision to consent to advertise the rezoning?

Hon PETER FOSS replied:

- (1) No.
- (2) Yes.

**LAND - LOT 401 LA PEROUSE COURT, FRENCHMANS BAY, ALBANY,
REZONING APPLICATION**

1724. Hon BOB THOMAS to the Minister for Health representing the Minister for Planning:

- (1) Is the Minister for Planning aware that the standard response from the Minister for the Environment in relation to the numerous appeals from objectors to the proposal to rezone lot 401 Frenchmans Bay, Albany, in which the appeals focused on the Environmental Protection Authority's failure to deal with the contention that the proposed setback of 30 metres is inconsistent with the Department of Planning and Urban Development's country coastal planning policy guidelines of 100 metres (for stable sandy coasts) was that -

"The establishment of coastal setback distances is determined through the State Planning Commission's Coastal Planning Policy by the Department of Planning and Urban Development. Expertise and responsibility for managing urban development in coastal situations was allocated to the Department of Planning and Urban Development a number of years ago. A branch within the Department of Planning and Urban Development has been exclusively charged with this responsibility and has developed specific policies to manage such important issues as those you have raised."

- (2) Was this allocation of responsibility to the Department of Planning and Urban Development a formal delegation of responsibility for conducting environmental impact assessments of coastal development proposals under section 19 of the Environmental Protection Act 1986?
- (3) If so, what was the instrument and what were the terms of the delegation?
- (4) If not, does the Department of Planning and Urban Development exercise the assessment function by virtue of what the Independent Advisory Committee of the "Review of the Environmental Protection Act 1986 (1992)" describes as an "informal agreement or arrangement which the Environmental Protection Authority has reached with a number of agencies whereby assessment functions in relation to some proposals can be discharged by those agencies"?

Hon PETER FOSS replied:

- (1) No. However, the Minister for Planning is aware that the State's coastal planning is undertaken by the Department of Planning and Urban Development.
- (2) No.
- (3) Not applicable.
- (4) No.

**LAND - LOT 401 LA PEROUSE COURT, FRENCHMANS BAY, ALBANY,
REZONING APPLICATION**

1725. Hon BOB THOMAS to the Minister for Health representing the Minister for Planning:

- (1) On what grounds does the Minister for Planning base his consent to advertise amendment 100 to town planning scheme No 3, lot 401 Frenchman Bay, Albany, when the specialist advice from the coastal planning branch of the Department of Planning and Urban Development and the State Planning Commission advises against the proposed development?
- (2) Why did the Minister consent to advertise the amendment but then decline

to make available for public comment or assessment by relevant planning bodies (such as the Shire of Albany) the specialist advice from the coastal planning branch of the Department of Planning and Urban Development, the report from the Albany office of the Department of Planning and Urban Development or the State Planning Commission recommendations to the Minister?

- (3) Why is the coastal impact assessment process not subject to the same fair and open consultative review process as the rest of the environmental assessment for lot 401 Frenchmans Bay?
- (4) Will the Minister make those reports available to the Parliament?
- (5) If not, why not?

Hon PETER FOSS replied:

- (1) To determine what concerns the community may have on the proposal.
- (2) Access to the coastal impact assessment has been provided to assist the Shire of Albany to reach its decision. The recommendation of the State Planning Commission is a confidential internal report and is not considered a public document.
- (3) The Minister for Planning's decision to advertise the amendment is to allow full public consultation on the proposal.
- (4) The State Planning Commission recommendation is a confidential internal report and is not considered a public document. The coastal impact assessment can be made available should the member request it.
- (5) See answer to question (4).

BOARDS AND COMMITTEES - CHAIRMAN; MEMBERSHIP

1825. Hon KIM CHANCE to the Minister for Health representing the Minister for Planning:

- (1) Who is the Chairman of the Heritage Council of Western Australia?
- (2) What is the term of the appointment of the chairman?
- (3) Who are the committee members of the Heritage Council of Western Australia?
- (4) What are the terms of the appointment of each member?
- (5) By whom was each person nominated?
- (6) What remuneration is paid to each member and the chairman?
- (7) When was each member first appointed?

Hon PETER FOSS replied:

- (1) Vacant.
- (2) Term of appointment of chairman is five years.
- (3)-(7)

Members	Term appointed	Nominated by	Remuneration paid \$	When appointed
Mr M. Owen	4 years	BOMA, Institute of Valuers & Urban Development Inst.	3 750	19.3.91
Ms A. Evans	3 years	WA Municipal Asscn	"	19.3.91
Dr C. Clement	3 years	Minister for Heritage	"	5.1.93
Mr P. Griffiths	2 years	Institute of Architects	"	6.5.92
Mr M. Lewi	3 years	National Trust	"	12.6.92

Mr R. Chisholm	2 years	Minister for Heritage	"	11.5.93
Mr B. James	2 years	Minister for Heritage	"	11.5.93
Dr A. O'Brien	2 years	Minister for Heritage	"	11.5.93

EDUCATION DEPARTMENT - FIRST STEPS PROGRAM, SALE

1878. Hon JOHN HALDEN to the Minister for Education:

- (1) Has the Department of Education sold the primary school First Steps program?
- (2) If so -
 - (a) why was it sold;
 - (b) to whom was it sold; and
 - (c) how much was paid by the purchaser?
- (3) What is the cost to the schools who now wish to purchase the program?

Hon N.F. MOORE replied:

- (1) No. The Education Department has not sold the primary school First Steps program. The program is being marketed, in conjunction with the publisher Longman Cheshire, to interstate and international education interests on a commercial basis. The Minister for Education retains ownership of all First Steps materials.
- (2) Not applicable.
- (3) First Steps materials are supplied free to Government primary schools. All will have had access to First Steps materials by the end of 1994.

APPRENTICESHIPS - NUMBERS IN ELECTRICAL, CARPENTRY, PLUMBING, PAINTING, BRICKLAYING TRADES

1884. Hon A.J.G. MacTIERNAN to the Minister for Employment and Training:

- (1) What are the numbers of persons currently undertaking apprenticeships in the following trades -
 - (a) electrical;
 - (b) carpentry;
 - (c) plumbing;
 - (d) painting; and
 - (e) bricklaying?
- (2) What were the numbers of persons undertaking apprenticeships in those areas in 1985?

Hon N.F. MOORE replied:

(1)-(2) Trade/Apprenticeship	31.3.94	31.3.85
Electrical*	1 370	1 097
Bricklaying	159	100
Carpentry and joinery	687	504
Plumbing and gasfitting	341	283
Painting and decorating	217	233

* Includes - Electrical installing/electrical mechanics; electrical fitting/engineering tradesperson (electrical); instrument/electrical.

QUESTIONS WITHOUT NOTICE**NEWTON, MARK - CONSULTANCY BRIEF, TABLING**

1143. Hon JOHN HALDEN to the Minister for Transport:

In response to questions without notice 1096 and 1127 the Minister said

he would make public the consultancy brief given to Mr Mark Newton. He has twice promised to table the document forthwith and has still not done so. Will the Minister table the consultancy brief now; if not, why not?

Hon E.J. CHARLTON replied:

I seek leave to table the document now.

Leave granted. [See paper No 1237.]

**NEWTON, MARK - NO CONFLICT OF INTEREST, MINISTER'S
STATEMENT IN *DAILY COMMERCIAL NEWS***

1144. Hon JOHN HALDEN to the Minister for Transport:

Will the Minister confirm his statement in the *Daily Commercial News* that he does not see any conflict of interest if the company belonging to Mark Newton ends up forming part of a consortium that could eventually run Stateships?

Hon E.J. CHARLTON replied:

I have had no discussions with the *Daily Commercial News*.

**CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE
ACT - INQUIRY**

1145. Hon T.G. BUTLER to the Minister for Health representing the Minister for Labour Relations:

- (1) Has the Minister announced an inquiry into the Construction Industry Portable Paid Long Service Leave Act?
- (2) If so, when was the inquiry announced?
- (3) Who is conducting the inquiry?
- (4) What are the terms of reference?

Hon PETER FOSS replied:

The Minister has provided the following reply -

(1)-(2)

No; the Minister has however announced his intention to conduct a review. The Construction Industry Portable Long Service Leave Payments Board was advised of the Minister's intention to review the Act on 23 February 1994. Employees in the building and construction industry were advised in a personal letter from the Minister in the week commencing Monday, 21 March 1994. Employers were notified in a similar letter the following week.

- (3) The Minister has yet to announce who will be conducting the review. However, the matter is currently being considered by the Western Australian Labour Relations Advisory Council.
- (4) The Minister is currently considering the terms of reference for the review. It is important to note that already the Minister has received a number of letters from employers and employees which are deeply critical of various aspects of the operations of the board. The Minister will refer to these letters in determining the terms of reference for the review. These letters of complaint clearly vindicate the Minister's announced intention to review the Act.

**SEPTIC TANKS - CHURCHMANS BROOK ESTATE
*Environmental Health Branch of Health Department Assessment***

1146. Hon J.A. SCOTT to the Minister for Health:

- (1) Has the environmental health branch of the Health Department assessed

the use of septic tanks in the Churchmans Brook estate proposal given that this is located in an important water catchment area?

- (2) If so, what were the conclusions of that assessment?

Hon PETER FOSS replied:

- (1) The environmental health branch has assessed the use of septic tanks in the Churchmans Brook estate proposal. The estate is not located in a Water Authority of Western Australia water supply catchment.
- (2) Septic tanks or alternative technology waste water systems would be acceptable after individual site assessment and site modification; for example, rock removal in some cases.

PEMBERTON SEWERAGE SCHEME - PEMBERTON HOSPITAL'S CONTRIBUTION

1147. Hon DOUG WENN to the Minister for Health:

- (1) Will the Pemberton Hospital's contribution to the Pemberton sewerage scheme be met by the Health Department or from the hospital's budget?
- (2) What is the anticipated size of the contribution?

Hon PETER FOSS replied:

- (1) The full estimated cost of the connection has been budgeted from the regional repairs and maintenance special allocation fund.
- (2) The estimated cost for the connection is \$25 000.

CONSTRUCTION INDUSTRY PORTABLE PAID LONG SERVICE LEAVE ACT - LETTER TO BENEFICIARIES, LEGAL ADVICE

1148. Hon T.G. BUTLER to the Minister for Health representing the Minister for Labour Relations:

- (1) Did the Minister obtain legal advice before posting a letter and enclosure to beneficiaries of the Construction Industry Portable Paid Long Service Leave Act?
- (2) If so, what was the advice and was it obtained orally or in writing?

Hon PETER FOSS replied:

- (1) Yes.
- (2) The advice was that the Minister's actions would not breach the Construction Industry Portable Paid Long Service Leave Act 1985. The advice was obtained in writing.

WESTRAIL - DEREGULATION OF MAJOR BULKS TRANSPORTATION REPORT, WORK FORCE REDUCTION

1149. Hon DERRICK TOMLINSON to the Minister for Transport:

I refer to question 1137 asked in this place yesterday by the Leader of the Opposition, Hon John Halden. Does the Minister have further information about a Department of Transport submission that Westrail should offset revenue reductions by reducing its work force by 340 rail positions?

Hon E.J. CHARLTON replied:

As I said yesterday when I was asked the question, I was not aware of such a report and as far as I was concerned all redundancies and reductions had taken place in Westrail. I am sure the member will be

aware that last night during the adjournment debate I said that the Leader of the Opposition had been given an old report.

Hon John Halden: It is the current report; you know it is.

Hon E.J. CHARLTON: It is an old report. With that old report the Leader of the Opposition put two and two together and came up with a very misleading answer. He went to the Press, which reciprocated by printing the misleading information.

Hon Tom Helm: Did you say two and two?

Hon E.J. CHARLTON: He had two and two but rather than coming up with five he came up with seven. As I knew the Leader of the Opposition would be interested in hearing the facts - he always demands the facts - I made some inquiries today and found that no such report exists. In fact the Director General of Transport -

Hon John Halden interjected.

Hon E.J. CHARLTON: The Leader of the Opposition should listen to this.

Hon John Halden: Was it a figment of my imagination?

Hon E.J. CHARLTON: Yes; it was another one. The Leader of the Opposition, as always, did not check the accuracy of his information or documents given to him. He runs off at the mouth. This morning I found out that a two-and-a-half page introductory letter had been prepared for me requesting I make a decision about the future of the Westrail major bulk store. Attached to that letter was the document supplied to me last year with the recommendations concerning deregulation of the major bulk store. It was last year's document and was acted on by Westrail to reduce its numbers to allow it to become competitive and operate commercially in a deregulated market place with not only major bulks, but also all others. The big decision was made last year so that when deregulation finally occurs -

Several members interjected.

Hon E.J. CHARLTON: Members opposite should listen; they all have it wrong. How will they get it right if they do not listen? The Director General of Transport provided me with a copy of last year's recommendation on which we had acted. In bringing it to my attention again verbally with respect to an update of that decision, I responded that I would make the decision.

Several members interjected.

The PRESIDENT: Order! I would like to follow this, but I cannot follow it when four or five other people are speaking, so members should cut it out.

Hon E.J. CHARLTON: I will make the decision following discussions with Westrail about the deregulation of major bulks. During discussions today with the Director General of the Department of Transport he produced the same report that was given to the Labor Party in November 1992, recommending the same reduction of numbers. The numbers quoted by Hon John Halden are not just 12 months old, but 18 months old. They were the recommendations given to the Labor Party when it was in Government. The former Government not only did nothing with those recommendations, but also made no commercial decisions regarding the commercial future of Westrail; instead, it let Westrail bleed to death.

I seek leave to table the document of November 1992 for the benefit of the Leader of the Opposition.

Leave granted. [See paper No 1238.]

DANGEROUS GOODS AND EXPLOSIVES - ACCIDENTS AND SAFETY MEASURES

1150. Hon P.H. LOCKYER to the Minister for Mines:

I refer the Minister to an article in *The West Australian* of Monday, 4 April about the incidence of accidents involving explosives and dangerous goods. Will the Minister provide the House with details of these statistics and of the measures taken to maintain safety in this area?

Hon GEORGE CASH replied:

I thank Hon Phil Lockyer for some notice of this question.

Hon John Halden: You do it so well.

Hon GEORGE CASH: For the information of the Leader of the Opposition, Hon Phil Lockyer represents the pastoral and mining industries.

Hon Mark Nevill: And the occasional Aboriginal?

Hon GEORGE CASH: Indeed. This issue is relevant to his electorate. When he raised the issue with me the other day I said that if he cared to put it in the form of a question I would get some advice for him. This is now the answer.

Accidents involving the use of dangerous goods and explosives decreased from 51 in 1992 to 43 in 1993. Of those 43 accidents only one accident involved explosives: A boy mistook an empty detonator cartridge for a shotgun cartridge, which was found in an old farm building with approximately 250 other detonators, and tried to grind the casing for use in a sling shot, causing the detonator to explode. Regrettably the boy lost two fingers and part of a thumb. This incident is disturbing and highlights the need for those who use explosives to keep them away from children who do not realise their danger. The number of accidents involving the storage of dangerous goods decreased from 24 in 1992 to 17 in 1993. Human error contributed to 37 per cent of those incidents. This shows a good trend in the battle to eliminate accidents in the use of dangerous goods and explosives. All efforts utilised in the past will be maintained. However, an increase has occurred in the number of accidents involving the transport of dangerous goods which increased by three from 22 in 1992 to 25 in 1993. Programs are now in place to rectify this problem, which include compulsory re-certification tests for tankers every five years. I am sure all will be done to increase safety in the transport of dangerous goods, and as the Minister responsible I will continue to monitor this issue.

MAIN ROADS DEPARTMENT - WORK FORCE REDUCTION

1151. Hon JOHN HALDEN to the Minister for Transport:

Will the Minister adopt the recommendation of the report on work force management strategy and enterprise bargaining to reduce the Main Roads Department work force by 192 employees?

Hon E.J. CHARLTON replied:

I am supportive of the recommendation. I look forward to the developments as a consequence of that report because this Government is about providing the most efficient operation in the Government agencies to deliver the most productive and beneficial operations to the community which they serve. The Government is aiming for a reduction in the overall administration and operational costs of the Main Roads Department. As a consequence, it is envisaged that with those great efficiency gains, the Government will deliver more pay to the employees and probably around \$10m benefit -

Hon John Halden: Have you discussed this with anyone?

Hon E.J. CHARLTON: I do not have to run to the unions like Hon John Halden. They do not dominate me. Hon John Halden would not have won by even one vote if he had to rely on other people.

Several members interjected.

The PRESIDENT: Order! I will not call on members to come to order again. If we want to proceed with questions without notice let us listen to the answers when the questions are asked.

Hon E.J. CHARLTON: As well as the benefits to the employees, an expected \$10m extra funding as a consequence of those improvements will go to the maintenance and construction of roads. I support the proposal; however, no decision has been made at this stage. The Government may be able to make even larger gains and benefits in the Main Roads Department.

Hon John Halden: More contracting out.

Hon E.J. CHARLTON: Yes, more contracting out. Mr Halden would not understand that more and more jobs are being done by the private sector under contract. That does not mean fewer people are working in road construction, but just that they are not employed by the Main Roads Department. Hon John Halden would not understand that, being a union dominated, narrow-minded, non-thinking individual.

SCHOOLS - QUINNS ROCK-CLARKSON HIGH, EARLIER CONSTRUCTION CONSIDERATION

1152. Hon REG DAVIES to the Minister for Education:

Owing to the northern suburbs being the fastest growing region in Western Australia in population, will the Minister give consideration to bringing forward a capital works program to allow the Quinns Rock-Clarkson high school to be built earlier than planned to prevent schools such as Ocean Reef Senior High School being forced to cope with overcrowding?

Hon N.F. MOORE replied:

The matter referred to in this question has been brought to my attention by the member for Wanneroo. I have had preliminary discussions with the Education Department about its capital works budget. In answer to a question two weeks ago I indicated that the next senior high school in the pipeline is in Warnbro, which is due for opening in 1996. I am aware of the situation at Ocean Reef. I have asked the department to give consideration to bringing forward the construction of that school. Hon Reg Davies would be aware that the cost of a high school is in the vicinity of \$20m, and the Government is still paying off the debts of the last Government.

COLLIE POWER STATION PROJECT - ENVIRONMENTAL STANDARDS IMPROVEMENT; OTHER POWER STATIONS CLOSURE

1153. Hon J.A. SCOTT to the Minister for Mines representing the Minister for Energy:

- (1) The Minister for Lands announced that the proposed Collie power station would have superior environmental standards to the previous proposal. How have the standards been improved?
- (2) Will the commissioning of the proposed Collie power station bring about the closure of any other power station, and will this mean an overall drop in the level of greenhouse gas for each kilowatt of energy produced?

Hon GEORGE CASH replied:

The Minister for Energy has provided the following reply:

- (1) Chimney stack height has been increased from 130 metres to 170 metres to improve the dispersion of gaseous emissions.
- (2) The Bunbury power station may be closed when Collie is operational. Collie will produce fewer greenhouse gas emissions than Bunbury each kilowatt of energy produced because Collie will be more efficient at converting coal to electrical energy.

**CUNNINGHAM, VAIDA - LAND SUBJECT TO CLEARING BANS, NO
COMPENSATION SCHEME, MINISTER'S ADVICE EXPLANATION**

1154. Hon KIM CHANCE to the Minister for Transport representing the Minister for Primary Industry:

I refer the Minister to the third paragraph of his letter to Mrs Vaida Cunningham of Kondinin, faxed from his office on 31 March 1994, in which he stated -

I must state clearly to you that there is no Government compensation scheme in place for land subjected to clearing bans and there is no contemplation of such a scheme in the future.

- (1) Has the Minister sought to mislead Mrs Cunningham, when it is known that a Government compensation scheme for land subject to clearing bans has existed for many years in the south west of this State?
- (2) Has the Minister sought to mislead Mrs Cunningham in regard to the Government's intention, announced by the Minister for the Environment and published at page 20 of *The West Australian* on 4 April 1994, to make an offer to a Kukerin farmer to purchase land subject to a clearing ban?
- (3) If the Government was not contemplating a scheme to extend the scope of existing compensation arrangements at the time the Minister advised Mrs Cunningham on 31 March 1994, what factors led to the apparent contradiction four days later by the Minister for the Environment?

Hon E.J. CHARLTON replied:

(1)-(3)

The Minister for Primary Industry has advised me verbally about this situation so that I can answer the question. I am advised that the whole issue regarding the Cunninghams is being negotiated directly and, as those negotiations are at a crucial stage, the Minister considers it would be in the best interests of all concerned that the contents of the member's question be held over until the negotiations are completed.

MOTOR VEHICLE REGISTRATION - \$50 LEVY

Payment Refusals

1155. Hon REG DAVIES to the Minister for Finance:

I direct the Minister's attention to a letter to the editor in this morning's issue of *The West Australian*, from Mr D.J. Gregory of City Beach, which contains the following statement -

Mr Evans said that up to February 28, no one had refused to pay the levy by deducting the \$50 from the registration payment.

I deducted the \$50 from the registration renewal notice I sent to the Police Department's licensing services section which the department received on March 3.

How many people have refused to pay the \$50 WA Inc levy by deducting the levy themselves from their registration payment?

Hon MAX EVANS replied:

I was made aware of that letter in the newspaper, and the statement referred to in it is not correct. I am aware that many people deducted the levy when paying their licence fees and did not receive their motor vehicle licences as a result. When the time expired on their previous licences, the vehicles had to go over the pits for inspection, which proved an embarrassment for some people and cost them a lot of money. It would be an onerous task for the police to find out how many people deducted that \$50 levy, and it may not be possible to establish that information.

Hon Reg Davies: Was the information in the newspaper incorrect?

Hon MAX EVANS: Yes; I have never said that. The letter tried to quote me but I do not know where he got that from.

Hon Reg Davies: Perhaps from the Minister representing you in another place.

Hon MAX EVANS: That may be so, but certainly I am aware that many people deducted the \$50 from their payments and I have been worried about them losing their licences.

WESTRAIL - DEREGULATION OF MAJOR BULKS TRANSPORTATION *Work Force Reduction*

1156. Hon JOHN HALDEN to the Minister for Transport:

In view of the Minister's comments this morning on ABC Radio that the report on major bulk transport was not important, as Westrail had already experienced a significant reduction in its work force, can the Minister give the following guarantees -

- (1) There will be no additional reductions in the work force, as recommended in this report?
- (2) There will be no increase in State taxes and charges to cover rail losses?
- (3) Westrail will not suffer further financial losses as a result of deregulation?
- (4) There will be no increase in the rates paid by current rail users?

Hon E.J. CHARLTON replied:

(1)-(4)

Those questions are without any foundation. Not only did the Government last year make provision in the Budget for implementing the reduced number of Westrail staff, but also instead of the 480-odd reduction in staff, recommended to the previous Government in November 1992, 1 150 people left Westrail in the past year. That is the reason Westrail can proceed to operate very competitively and will not require any decisions to be made to reduce the number of staff to achieve its objectives.

As far as deregulation of major bulks is concerned, as I said earlier, that is a decision the Government has yet to make.

Hon John Halden: Is the answer yes or no?

Hon E.J. CHARLTON: I do not give the member yes or no answers. Without any answer or any information at all, the member opposite runs off at the mouth to *The West Australian*, which prints everything he says. Every time it is misleading. This man professes to have great concern for union members, but yesterday he told *The West Australian* that 500 people from

Westrail would lose their jobs, on the basis of a document handed to his Government in November 1992. That is how reliable he is, and that is why I do not give yes or no answers. He cannot accept an answer given in black and white, but twists it around into something inaccurate. Westrail will not make any reductions as a consequence of any future decisions that may be made about major bulks deregulation. Therefore, the other aspects of his question do not require comment.

WESTRAIL - DEREGULATION OF MAJOR BULKS TRANSPORTATION
No Reduction in Overall Rail Network; No Tax Increases

1157. Hon JOHN HALDEN to the Minister for Transport:

In relation to the report on major bulks, can the Minister guarantee -

- (1) There will be no reduction in the overall rail network, especially grain lines?
- (2) There will be no increases in taxation on the road industry?

Hon E.J. CHARLTON replied:

(1)-(2)

There will be absolutely no initiatives by the Government in response to the suggestions made by the Leader of the Opposition.

SCHOOLS - POLITICAL ESSAY PROMOTED BY WA SECESSION MOVEMENT

1158. Hon TOM HELM to the Minister for Education:

In view of the Minister for Education's ignorance of a competition for year 12 students being promoted in high schools by the WA secession movement, will the Minister instruct his department to show greater diligence in scrutinising highly political material of this nature coming into our schools?

Hon N.F. MOORE replied:

I understand that the people promoting that essay wrote directly to every high school in Western Australia. I do not know everything that is going on in every school in Western Australia at any particular time and, if Hon Tom Helm expects I should know that, I suggest it is not possible.

Hon Tom Helm: What do you know?

Hon N.F. MOORE: A group of people wrote to every secondary school -

Hon Tom Helm: What do you know?

The PRESIDENT: Order! I will tell the member what I know. Hon Tom Helm who has asked the question is out of order in constantly harassing the Minister while he is answering the question. The member will get the call from me at question time - this applies to any member of this House - only if he conforms to the rules of this place. If he does not want the Minister to answer the question, he should not ask it in the first place.

Hon N.F. MOORE: The letter was written by an organisation without my knowledge to every high school. I cannot control what people do in respect of writing letters to high schools. It may even be that Hon Tom Helm writes letter to schools and I know nothing about them either. However, I would not deny him the opportunity of doing that. I do not necessarily support schools assisting with regard to that essay, and I do not know whether the schools have been asked to do that. Certainly people have the right to write letters to other people, and I do not have the right to stop them.

HOSPITALS - BUNBURY REGIONAL
Health Needs of South West Report

1159. Hon DOUG WENN to the Minister for Health:

- (1) Has the Minister received a report from the ministerial task force established to examine the health needs of the south west, and to make recommendations on the planned Bunbury regional hospital?
- (2) If yes, when will the Minister release this report to the House?

Hon PETER FOSS replied:

- (1)-(2) The report has been received in my office, has been looked at by my staff and has been sent back for a firm recommendation on one matter, which has been left for a number of options. When I receive the firm recommendation I will arrange for the appropriate disclosure to the public.

**SCHOOLS - COVERED ASSEMBLY AREAS IN THREE LIBERAL
 ELECTORATES, CONSTRUCTION DECISION, DOCUMENTS TABLING**

1160. Hon JOHN HALDEN to the Minister for Education:

On Tuesday, 22 March, the Minister said that he would table the document justifying his decision to build three covered assembly areas in three Liberal electorates. He said that he would table the document within one minute. It is now 14 days since the Minister made that statement. Will the Minister table the document. If not, why not?

Hon N.F. MOORE replied:

I have asked the attendant to let me know the date on which I tabled the document; it was the day after the request was made. The Leader of the Opposition was so engaged in other things that he did not notice.

**SCHOOL DENTAL SERVICES - ADDITIONAL BUDGETARY
 COMMITMENTS; AUTOCLAVES FUNDING**

1161. Hon KIM CHANCE to the Minister for Health:

- (1) Is the Minister aware that the shadow Minister for Health was informed by the Commissioner of Health, Dr Peter Brennan, that funds for autoclaves in the school dental service would not be found by cutting other services?
- (2) Is it true that the delay in the introduction of school dental services for year 12 students is a result of new budgetary commitments as reported in the *Sunday Times* on 3 April?
- (3) Are these new budgetary commitments a direct result of the decision to provide autoclaving instruments in the school dental service?
- (4) If not, what are these new budgetary commitments?

Hon PETER FOSS replied:

- (1) Yes
- (2) The extension of the school dental service to year 12 was only possible on the basis that the associated costs would be accommodated from within the existing budget of dental health services. This is now not possible.
- (3) No.
- (4) The additional budgetary commitments relate to the cost of a pay increase recently granted to dental therapists.

**NATIVE TITLE ACT - STATE'S CHALLENGE IN HIGH COURT, LEGAL
 TEAM'S ADVICE**

1162. Hon TOM STEPHENS to the Leader of the House representing the Premier:

- (1) Did the advice received from the legal team formed to advise the Premier

on the Commonwealth's Native Title Act 1993 indicate that the proposed challenge to the High Court was unlikely to succeed?

- (2) If it did, why is the Government proceeding with this challenge?
- (3) If it did not, why does the Government not get better advice?

Hon GEORGE CASH replied:

The Premier has provided the following reply -

A similar question was previously asked by Hon Tom Stephens on 29 March 1994. The answer remains -

- (1) The advice received from the legal team formed to advise on the prospects of attacking successfully the validity of the Commonwealth's Native Title Act 1993 was that the State should mount its own challenge in the High Court to the validity of the Native Title Act.

- (2)-(3) Not applicable.
-