ADOPTION AMENDMENT BILL (NO. 2) 2002

Consideration in Detail

Resumed from 14 November.

Clause 29: Section 52 amended -

Debate was adjourned after the clause had been partly considered.

Mr R.F. JOHNSON: When we last dealt with this clause two weeks ago, as I recall, we rose after the House had divided on an amendment moved by the member for Churchlands, which of course was defeated by the Government, so we are again dealing with clause 29 proper. There is an amendment standing in my name on the Notice Paper, which I believe will put some commonsense into this legislation. Before I move the amendment, I will speak generally to this clause. Once again I believe that the minister is not listening to the Western Australian community. The community is asking for some comfort in the age gap between the adoptee child and the adopting parents. The Government is not recognising what is happening today and how society has moved on. It is not recognising that many couples decide to have children later in life. That is their right. I agree 100 per cent that if people want to do that, they should be able to. It is not unusual for a woman of 45 years of age to have a child. It may not be very common, but it is not unusual and it is perfectly acceptable in society. Very often a woman of 45 years and her husband or partner of 46 or 47 years of age decide that they want a child. It may be a second marriage. The first marriage may have failed and the new couple may decide that they want to have a child biologically to fulfil their family unit. The Liberal Party absolutely endorses their right to be able to do so.

Clause 29 does not reflect what is happening in society. The minister is taking the view that the maximum age between an adopting parent and an adoptee child should be 45 years. Unfortunately, this clause - I will call it the minister's clause - refers to the older of the two parents. I am not being sexist, but normally - not always - a woman would be a few years younger than the man in a partnership. The minister is not taking into account the fact that a 36-year-old woman and a 46-year-old man could want to adopt a child for two reasons: first, they would desperately love to have a family unit, including a child; and secondly, they would prefer to give a home to a child who, unfortunately, does not have parents. In most cases, that would be an overseas adoption. I am fully aware that in this State the relinquishing mother or parent normally opts for a couple in their mid 30s. It is the right of the relinquishing mother or parent to make that determination, and I would never argue with that. In the case of overseas adoptions, often slightly older adopting parents decide that they want to give a child a loving and caring home in the best country in the world and in the best State in this country. Who can blame anybody for wanting to bring to this country a child who, unfortunately, has no parents and to give that child a loving and caring home?

I do not think the minister is taking into account the norm these days. I think she is living a little in the past. In the past parents were much younger when their children were born. In my case, I was 19 years and two months old when my first child was born. However, it is not a common occurrence these days. My wife and I had three other children until I worked out what I was doing. Today people get married or live in de facto relationships, and they decide to put off having a child until later in life when they have established themselves. I hope the minister will respond to what I believe is not happening in society at the moment.

Ms S.M. McHALE: I am happy to make some general remarks and respond to the member for Hillarys. However, I ask him which part of the community I am not listening to.

Mr R.F. Johnson: The people who wish to adopt children when the older of the two adopting parents is 46 or more years old. You are not listening to the younger parent either.

Ms S.M. McHALE: I have listened to a large section of the community. I want the member to clarify which section of the community I am not listening to.

Mr R.F. Johnson: Which section have you listened to?

Ms S.M. McHALE: I have taken account of a whole breadth of ideas, viewpoints and opinions.

Mr R.F. Johnson: From whom? That is a very general statement.

Ms S.M. McHALE: From Adoptions International of Western Australia, Adoption Jigsaw WA and the Adoption Research and Counselling Service. I have also read the reports of the review committee. I have listened to and taken account of the views of the groups. The issue is that I do not agree with all the arguments. I have made it very clear that we will not be able to accommodate everybody's wishes on the issue of age. There

is no disputing that. However, I do not agree with the views of certain people. I have listened, but listening and agreeing are not the same thing.

We need to consider the national parenting profile. In 1993 the age gap was 35 years for a first child and 40 years for a second child. That age gap was changed in 1994 to 40 years for all families, regardless of whether it was the first or second child. The previous Administration increased the age gap to 40 years but did not take account of any opportunities for the subsequent child; nor did the Government deal with the issue of the younger and the older parent. This Bill will increase by 10 years the age gap that has been in place since 1993, which more than outstrips the trend for parents to have children at an older age.

Mr R.F. Johnson: Since 1993 or 1994?

Ms S.M. McHALE: Since 1993, when the age gap was 35 years.

Mr R.F. Johnson: When was the age gap of 35 years brought in? Don't mislead the House by saying that it was in 1993. I accept that in 1994 it increased to 40 years, but when was the age gap of 35 years brought in?

Ms S.M. McHALE: Quite a number of decades ago.

Mr R.F. Johnson: Absolutely, so don't mislead the House by saying that the age gap was 35 years in 1993. It may have been, but that was in place for many years.

Ms S.M. McHALE: I am saying that the Bill will increase by 10 years the age gap that has been in place since 1993.

Mr R.F. Johnson: No.

Ms S.M. McHALE: Okay; the Bill will increase the age gap that has been in place since whenever it was introduced some decades ago.

The national parenting profile in 2000 shows that the median age of mothers of all babies born is 29.8 years - call it 30 years; three per cent of women aged 40 years and over had children; less than one per cent aged 45 years and over had children; and four per cent of fathers were aged 45 years and over. Couples do have children late in life; but I am telling the member that the percentage is very small. The member for Hillarys said that that is their right. However, there is no right to adopt; that is the issue and that is the difference. There is a right to be considered, and this Bill seeks to ensure that. There is a right for a child to be adopted into a safe, loving, permanent family arrangement. However, there is no right to adopt. We have listened to the community -

Mr R.F. Johnson: I did not say that. I said that there was a right for people to have a child biologically at that age.

Ms S.M. McHALE: The member's implication in this debate -

Mr R.F. Johnson: You are drawing inferences.

Ms S.M. McHALE: I am drawing inferences and if that is not the member's implication, that is regrettable. However, the right is for a child to be adopted. We have listened to the community. The review recommended an age gap of 43 years. We have increased that to 45 years. I have taken account of subsequent children who might be adopted into the family by increasing that age gap to 50 years.

Mr R.F. JOHNSON: I would very much appreciate hearing the rest of what the minister has to say.

Ms S.M. McHALE: From listening to the arguments about the age criteria, it is obvious that views differ. The Labor Government has adopted a very practical, sensible approach that the age difference between the parents and the child should be no more than 45, or 50 in the case of a second or subsequent child. We have all been lobbied by various organisations and we know that points of view differ. Once the Government decided that it would not remove the age criterion and although he wavered last week, I think the member supports an age criterion - it is a matter of drawing a line in the sand to determine what the threshold should be. I have heard from different quarters reference to a mythical couple comprising a 37-year-old woman and 55-year-old man. They have been excluded by virtue of the existing law. I have considered ways of overcoming what is perceived to be discrimination between a single person and a married couple. If an age criterion is stipulated, there is no way around that perceived discrimination. Even if the member for Hillarys' amendment were agreed to, discrimination could be alleged.

It is in the best interests of the child for it to be placed with adoptive parents who have a parenting profile that is not extremely different from the profile of most parents. Most children are born to a mother aged around 29.8 or 30 years. Most children are born to parents under the age of 40. By far the majority of children are born to

parents under the age of 45. They are the facts. If that is reality, that is the scenario in which we wish to place the child who is being adopted. I cannot see any other solution. I have listened and talked to people and asked whether 45 is considered to be a reasonable age. When people appreciate that the approach is based on the age gap between baby and parent, ours is deemed to be a very sensible and rational approach. Although I am happy to debate the member's amendment, the issue is about placing into another environment a child who has already lost his or her natural parents for a range of reasons. We want to ensure that that environment is not materially different from the norm, which I have illustrated. If we were to increase the age criterion, we would not do justice to the issue of placing a child into an environment that meets the norms of our community. It would not be in the best interests of adopted children for them to be placed with parents who are aged up to 55 or 60. However, I am happy to debate that when the member moves his motion.

Mr R.F. JOHNSON: I will move the amendment very shortly. It sounds as though the minister has taken a leaf out of my book and surveyed some focus groups in the past week or so. She has provided new information today. She said she had listened to some organisations.

Ms S.M. McHale: I have always said that I have spoken to all the organisations.

Mr R.F. JOHNSON: The minister has not said that. She referred to organisations, but they are intrinsically involved in the adoption area. Has she spoken to ordinary Western Australians and explained the Government's approach? Has she spoken to people who can stand back and give their opinions on the age criterion and how it could benefit or disadvantage the children who are in need of adoption? When the minister said that she had spoken to some focus groups, I thought she had done as I had done. I have spoken to groups of people who are not involved in adoption one way or the other; they are ordinary Western Australians who have a view.

Ms S.M. McHale: How many?

Mr R.F. JOHNSON: Quite a lot.

Ms S.M. McHale: How many is quite a lot?

Mr R.F. JOHNSON: Roughly 10, give or take several. I blew them out cold with a question about adoption when they were not prepared for it. They answered on the spot what they thought was right or wrong.

Ms S.M. McHale: Were the focus groups you spoke to concerned with adoptions or broad issues? Was it a bit of an omnibus survey or was it specifically on adoption?

Mr R.F. JOHNSON: It was a meeting of groups of people.

Ms S.M. McHale: So, it was not specifically on adoption?

Mr R.F. JOHNSON: No, not until I raised the issue, otherwise people would have had preconceived ideas. I wanted their on-the-spot thoughts, which is the best way to get people's opinions. In a poll, people are asked what they think about the Gallop Labor Government, and their answer is that it is pretty rough. Groups should not be warned that they will be asked questions.

Ms S.M. McHale: It must have been your Liberal Party colleagues.

Mr R.F. JOHNSON: According to the latest polls the Government is not doing too well. During a poll, people are not given advanced warning; a question is asked and an immediate response is provided. That is the response that we take notice of. I seek leave to move my three amendments on page 7 of the Notice Paper together.

[Leave granted.]

Mr R.F. JOHNSON: I move -

> Page 14, line 18 - To insert after "is" the following -
>
> , in the case of a sole prospective adoptive parent,
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> Page 14, line 22 - To insert after "is" the following -
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> , in the case of a sole prospective adoptive parent,
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> Page 14, after line 25 - To insert the following -
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> (iiib) is, in the case of two prospective adoptive parents jointly seeking to adopt a child, the younger prospective adoptive parent is not more than 45 years older than the child and the older prospective adoptive parent is not more than 55 years older than the

child, in the case where the prospective adoptive parents have not adopted a child before;

(iiic) is, in the case of two prospective adoptive parents jointly seeking to adopt a child, the younger prospective adoptive parent is not more than 50 years older than the child and the older prospective adoptive parent is not more than 60 years older than the child, in the case where the prospective adoptive parents have adopted a child before;

These amendments were prepared after much thought and deliberation and many conversations with and surveys of focus groups. The crux of these amendments is the age gap between the two adopting parents.

Ms S.M. McHALE: I am happy for the member for Hillarys to elaborate on his amendments.

Mr R.F. JOHNSON: The views of the Government and the Opposition on this issue differ markedly. The age criterion should focus on the younger of the two adopting parents rather than the older parent. Many children desperately need the love and care of an adopting family. I cannot understand the inconsistency in the minister's argument. There seems to be a vast differential in the Bill. She is happy for a single person 45 years old to adopt a newborn child. The minister is happy for a single gay or lesbian person to adopt a newborn child, but she will not agree to the adoption of a newborn child by a heterosexual couple if the woman is 38 years old and the man is 46 years old. I cannot see any rationale in that thinking that is fair to people in Western Australia. The minister is bending over backwards to allow the adoption of children by gay and lesbian people. She is quite happy for a single, 45-year-old homosexual male to legally apply to adopt a newborn child, yet she will not allow the adoption of a child by a married couple in a very stable relationship if one of the partners is 46 years old. Some members on the government side of the House have a problem with this clause. Unfortunately those members cannot speak their mind because they are bound by the rules of Caucus. However, I know that some government members have a problem with this clause.

Ms S.M. McHale: The member for Peel made his position very clear on the public record.

Mr R.F. JOHNSON: I assure the minister there are others - I will not name them - who will not stand in this Chamber and say so. It took a bit of courage for the member for Peel to do that, but he still voted with the Government because of the rules of Caucus. That is the difference between the minister's party and mine.

I want the minister to put on record - because at the next election the people of Western Australia will be interested in what she has said - how she can justify the legal adoption of a newborn child by a single, homosexual 45-year-old male, whereas she will not allow the adoption of a newborn child by a woman and man in a heterosexual relationship - I hope a married one. At one time a couple had to be married to adopt a child. The rules have been relaxed enormously now so that adoption by de facto couples is allowed. I do not have a problem with that, although I would prefer couples to be in stable married relationships when they adopt. However, I understand that many people live in de facto relationships today and I do not have a problem with that, provided they are in heterosexual relationships. I am interested in a child without a loving, family environment finding that loving, family environment with a heterosexual couple. I want the minister to explain how that child will have a loving, caring and normal environment with a single, 45-year-old homosexual male. I want the minister to explain to the House how that child's interests will be served by being adopted by a 45-year-old homosexual male. The minister will have great difficulty explaining that.

I want the minister to explain to the House why she will not allow a 36, 37, 38 or 39-year-old woman and a 46-year-old man in a married and stable relationship to offer a loving and caring environment to a child who has no parents and who is looking for adoption. I will listen very carefully to what she has to say because I believe it will come back to haunt her.

Ms S.M. McHALE: I make the point that the Opposition had eight years to change this section of the legislation. In fact, for four years - from the time of the review to the time it lost government - the Opposition brought no legislation into Parliament to amend the Adoption Act. Members opposite should look into their own souls to see why they did not bring in this legislation.

The same conditions will apply to married couples as will apply to gay and lesbian couples. A 38-year-old male and a 55-year-old woman cannot adopt; a 38-year-old male and a 55-year-old male in a gay relationship cannot adopt; and a 38-year-old female and a 55-year-old female in a lesbian relationship cannot adopt. There is, therefore, absolutely no difference between the treatment of heterosexual couples and gay and lesbian couples. The issue is the provision for singles to adopt. I am trying to get advice on when the Western Australian legislation was amended to allow singles to adopt, but I cannot get that advice at the moment.

The homophobia of the member for Hillarys has emerged in previous debates. We recognise that, because he argued it when we debated the Bill a couple of weeks ago. A 45-year-old gay man who is assessed as suitable for adoption will have gone through rigorous application, screening and medical processes and will be deemed to be as fit as any other 45-year-old person. That is the end of the member's homophobic argument.

The issue about older couples arises when a line is drawn in the sand. I have tried to find different ways of drawing that line but, quite simply, the only other way is to have no age criterion at all. Both sides of the House agree that an age criterion will remain in the legislation. Once we have agreed to that, the line in the sand must be drawn somewhere. I am saying that 45 years of age is a sensible line to draw between the age of the baby and the ages of the couple who will look after the baby for the rest of his or her life.

Mr R.F. Johnson: It is not the couple; it is the elder of the couple.

Ms S.M. McHALE: The elder of the two people. The member is talking about a couple aged 44 and 54 and a baby who will be with that couple forever. In the member's example the elder parent would be 70 years old by the time the baby grew up and went through driving licence tests and dealt with drugs, antisocial behaviour and life as a teenager.

Mr R.F. Johnson: No.

Ms S.M. McHALE: If the member adds 16 to 54, that is 70. The upper age in the member's example would be 75.

Mr R.F. Johnson: I am saying a maximum of 55 years old for the first child.

Ms S.M. McHALE: And 60; say it!

Mr R.F. Johnson: For subsequent children.

Ms S.M. McHALE: Yes. The member has said that the father - or it could be the mother - would be 60 when he adopted the baby.

Mr R.F. Johnson: Yes, but normally it wouldn't be the mother.

Ms S.M. McHALE: It could be either. There is no reason that a 37-year-old bloke could not be married to a 54-year-old woman. That hypothetically could occur.

Ms A.J. MacTiernan: There are many couples made up of older women and younger men.

Ms S.M. McHALE: Half their luck! What does the Minister for Planning and Infrastructure know about that?

I have just been advised that the provision in the Opposition's legislation for singles to adopt was passed in 1994.

Mr R.F. Johnson: For heterosexuals.

Ms S.M. McHALE: Of course it was for heterosexuals because the legislation was biased in that way. That is beside the point. A disparity between a single person and a couple will be created when single people are introduced into the adoption process. There is no way around that, other than to accept that there will be that disparity for a very small number of couples.

Mrs C.L. EDWARDES: I support the amendment moved by the member for Hillarys. We have gone past the debate on whether no age criterion will be inserted in the legislation. The House has decided that it supports an age criterion. However, I do not know the relevance of age in assessing whether a child will be adopted in an appropriate placement. It may very well come down to the ability of the people to look after the child and they could, therefore, be assessed in that way. The Adoption Act already contains provisions to allow a determination by the placement agency of the fitness of prospective parents to carry out the functions of parenting. The Government is proposing that for a first child the oldest prospective parent cannot be older than 45 and for a subsequent child cannot be older than 50. That is an absolute nonsense when we look at what occurs in the community. The minister referred to 1993 figures. I could not grasp the rationale behind the minister's statement that in 1993 the age was 35 and in 1994 it was 40. We are not talking about mythical parents. We all know of parents where the male is in his early fifties and has had a child by a woman who is younger than he is. Although such a person is physically capable of having that child himself and is responsible and able to look after that child in the ensuing years, under this amendment such a person will not be eligible to adopt a child. What is the reason for that? I cannot understand why 50 must be the maximum age for the oldest prospective parent. The minister talked about the ability of parents to help a child to get a drivers licence. We all get older as our kids get older. The minister has failed to recognise that the member for Hillarys is not proposing to

change the age of the younger parent. He is accepting the minister's gap between the age of the older parent and the age of the younger parent. If the minister does not think the older parent will be capable of helping a child to get a drivers licence and to talk about drugs and things like that, then the younger parent can do that; and when it comes to talking to a child about drugs, I think we need more than the 15-year age gap that the minister has used. If we accept the member for Hillarys' amendment, we will have the same age gap between the younger and the older parent. All of the minister's arguments support the arguments put by the member for Hillarys, except that she has put the age limit on the older of the prospective parents as against the younger. There is no rationale to that. If the minister supports the ages of 45 and 50, then why can 45 not be the age of the younger parent? That would make a lot more sense when we look at what is happening in the community. There are often large age gaps between married couples. If this is the appropriate age gap, then the age limit of 45 should be for the younger of the prospective parents.

Mr R.F. JOHNSON: The member for Kingsley has been in this place longer than I and has been a minister in this portfolio area. I have a lot of respect for the member for Kingsley's views and for the sorts of policies that she has come up with. We have moved on over the years. The minister was a bit misleading when she said that we have moved from an age of 35 in 1993 to an age of 45 in 2002. That is a bit of a red herring. I am interested to know when the age of 35 was brought in. I suggest it was many years before 1993. I would not want the minister to mislead the House and the public. The minister should be honest and say when that age of 35 became law, because that is the date the minister should be quoting when she says we have gone from an age of 35 to an age of 40. Now in 2002 the minister is proposing that the age criterion be even higher. The reason is that that reflects the situation in society. The minister talked about the older of the parents teaching a child how to drive. The minister is talking about the worst possible scenario, in which the woman is aged 45 and the man is aged 55. I agree with the minister that we should have some sort of age barrier, because, once again, I am concerned about the best interests of the child. However, I do not agree with the principle of unequal opportunities; that was the reason we voted the way we did the week before last. Even if the woman was aged 45 and the man was aged 55, when the child was aged 16 and nine months and could apply for a drivers licence, the younger of the two parents would be nearly 60. That is not too old.

Mrs C.L. Edwardes: Drivers licences are not taken away from people just because they have turned 60.

Mr R.F. JOHNSON: Exactly. Some people are still driving when they are 80. The worst possible scenario under my amendment is that when the child is aged 15 or 16, the younger parent may be nearly 60 and the older parent may be 65 or 70. I do not know many men aged 55 who would be seeking to adopt a child. I certainly would not be seeking to adopt a child at 55. I have done my share, and I am very happy with what I have. I would not want to take on parenthood at 55. However, some people have to do that. Sometimes grandparents have to take on the role of parents because their son or daughter and his or her partner have been killed in an accident. They may be aged 55 and 60 and there may be three children aged between one and six. It is quite legitimate and proper for grandparents, if they are capable and healthy enough, to look after their grandchildren. I am not suggesting they should be able to adopt the children, because I do not agree with that, but they would be perfectly adequate legal guardians and could care for those children just as well as anybody else, and in some instances probably better, because they would have a special love for their grandchildren. We should not come up with a furphy about the worst possible scenario when the child is aged 16 or 17 and wants to have driving lessons, because that is misleading the House. We should talk about what happens in the real world.

Mrs C.L. EDWARDES: I am keen to hear the member for Hillarys continue his remarks.

Mr R.F. JOHNSON: Nothing would be wrong with a woman aged 40 and a man aged 46 adopting a newborn child if they are in a stable relationship - preferably a stable heterosexual married relationship - and have the wherewithal to offer that child a loving and caring home environment. If they were allowed to adopt a newborn child, the woman would be about 55 years of age when that child was coming up to driving age. Would the minister feel capable at age 55 of adequately looking after that young person of 16 years of age who wanted to do his driving test, and caring for him and telling him about the evils of drug taking and all the rest of it? I am sure the minister could do that, even if her partner were five or six years older.

Ms S.M. McHale: Or aged 65.

Mr R.F. JOHNSON: The minister is taking the worst possible scenario. The relinquishing parent or the organisation, if it were an international adoption, has some say in who can adopt children from other countries. If they believed the couple did not fit the age criterion, they would say so, so why is this State being so discriminatory against people who are able and have the desire to give loving care to a child from another country? We are talking mainly about international adoptions. The minister has not convinced me, and I do not think she ever will; and I do not think she will convince the general public either. The minister has said that the whole theme of this legislation is the best interests of the child. The minister cannot justify that it is in the best

interests of the child for it to be adopted by a 45-year-old homosexual male than by a loving, heterosexual couple who are in a stable relationship where the younger parent is 45 years of age or less and the older parent may be over 45 years of age. The minister is denying the younger of the two adoptive parents in a stable relationship the right to offer a loving and caring environment to a child awaiting adoption. The minister is discriminating against the younger of the two prospective adoptive parents - mainly the woman. I accept that it can be the man, but in the majority of cases it is the woman. How can the minister justify discriminating against the younger of the two prospective adoptive parents, yet be prepared to allow a much older, single, homosexual male to adopt a baby? She has not convinced me and I do not think she can convince this House.

Ms S.M. McHale: Because you are homophobic.

Mr R.F. JOHNSON: I am not homophobic. I am talking about what is in the best interests of the child.

Ms A.J. MacTiernan: The thrust of your speech is what is in the best interests of the parents, not what is in the best interests of the child.

Mr R.F. JOHNSON: For the benefit of the Minister for Planning and Infrastructure, who is obviously very interested in this legislation - it is not her portfolio, but she is still interested - my concern is 100 per cent for the child.

Ms S.M. McHale: So you will be supporting this legislation?

Mr R.F. JOHNSON: How can I support the minister's legislation when it will allow a 45-year-old homosexual male to adopt a child? She will never convince the wider public. The minister is pandering to a very tiny minority of people in Western Australia, yet she will not be generous and listen to the needs and wants of another small group of people, and that is those prospective adoptive parents where the younger is less than 45 years of age. Will the minister explain that?

Ms S.M. McHALE: The Opposition's argument seems to be that it is okay to place a child who has already lost both natural parents into a family environment where there is a likelihood that one of those parents will either become infirm or, even worse, die.

Mr R.F. Johnson: That could happen much earlier in life.

Ms S.M. McHALE: Let us look at the likelihood as people age. In the member's proposal it is okay for the State to place a child in a family environment where, in 15 or 20 years time, the older of the two will be 75 or 80 years of age. The member said I referred to the worst case scenario, but people will push an age criterion and will want to be included. Therefore, people will use the upper ages of 55 and 60 if the Opposition's amendment is approved. When the member issued his press release on the ABC about the upper age of 55, he knew the community response. He did not indicate the upper age of 60 years; he referred to the age of 55. The member is referring to the applicant's best interests; he is referring to the interest of the couples who are of this age group and who cannot adopt. I am taking the child's interests into account.

Mr R.F. Johnson: You are taking the homosexual people's interests into account.

Ms S.M. McHALE: I am referring to the child's interests and saying that the State has a responsibility to place the child into a family that most suits the norm in our community. I am managing the conflict of these competing demands, and there is no solution to this differential in age.

Mr W.J. McNee: Your amendment is not a solution.

Ms S.M. McHALE: I am saying there is no solution to the issue about a differential between singles and couples when there is an age criterion. Neither does the Opposition's amendment deal with that; it creates another differential. We do have a problem. The member is trying to deal with a situation where a single person of 35 years can adopt a baby and married persons aged 35 and 46 cannot. The member's amendment reverses the discrimination and allows an older person aged 50, 52 or 53 to adopt, but not a single person. That amendment creates the same sort of discrimination in reverse.

Mr R.F. Johnson: No. That is why I am referring to the younger of the parents.

Ms S.M. McHALE: The member is using the argument that a 35-year-old can adopt if he is married to a 46 or 47-year-old, but a 35-year-old can adopt if single, or female.

Mrs C.L. Edwardes: No. You are reading it wrong.

Ms S.M. McHALE: The member is concerned about the situation where there is a 35-year-old and a 47-year-old -

Mrs C.L. Edwardes: Two prospective adoptive parents.

Ms S.M. McHALE: That is what I am talking about. I am referring to a couple, one aged 35 and the other aged 47.

Mrs C.L. Edwardes: It does not discriminate against a single, no more than your amendment does.

Ms S.M. McHALE: In reverse, it does.

Mrs C.L. Edwardes: No, it does not.

Ms S.M. McHALE: In a relationship they can adopt, but a 47-year-old out of a relationship cannot adopt.

Mrs C.L. Edwardes: They cannot under your amendment.

Ms S.M. McHALE: No, they cannot under my amendment. In the member's attempt to resolve an issue of disparity between a single person and a married person of the same age, one of whom is married to somebody older than 45, she has created another discrimination whereby a 47 or 50-year-old can adopt by virtue of being in a relationship with somebody under 45, but a 47-year-old single cannot.

Mrs C.L. Edwardes: Let us go back to the member for Churchlands' amendment.

Ms S.M. McHALE: We have been through that.

Mrs C.L. Edwardes: If you have an age criterion, there will always be discrimination, but ours is better than yours.

Ms S.M. McHALE: I thank the member for Kingsley.

Mr R.F. JOHNSON: The minister has come up with an absolute furphy. The point I have been making is that the main criterion - the minister keeps saying it is her main criterion but I do not believe it is - is what is in the best interests of the child. I suggest to the minister that it is always better for a child to go into a normal, marriage-type relationship, because that is the norm in society. Mum and dad are the norm in society. It would be best for a child to go into that sort of environment. The minister is saying that we are discriminating against a single person who is younger. That is absolute rubbish and absolute nonsense. I am saying that the age gap that applies to the younger of the prospective adoptive parents would be used as the age gap criterion. That would apply to a single person and also to a married couple or a couple in a de facto relationship. There cannot be an older person if there is only one person in a relationship; that person would be in a relationship with himself or herself! There is no difference. We are not discriminating against those people. However, we do not want to discriminate against prospective adoptive couples in which there is a younger partner and an older partner who is just over the age of 45 years. That is where the difference is, and the minister has not convinced me at all -

Ms S.M. McHale: Yes, but you are going to 45 and 60. Go to 50.

Mr R.F. JOHNSON: Okay. I will put it this way -

Ms S.M. McHale: Fifty-five and 60 are what you are putting, and that is the upper age limit.

Mr R.F. JOHNSON: No, the minister is talking about those age gaps for subsequent children who are being adopted. However, that is covered in the Government's legislation anyway.

Ms S.M. McHale: It is 55 for the first child.

Mr R.F. JOHNSON: That would be the absolute maximum age in a couple.

Ms S.M. McHale: Yes, but it is a legal age.

Mr R.F. JOHNSON: I believe that the younger person in a couple is the most important one, because one would normally assume that the younger person would be the healthier one and would bear the brunt of caring for the child.

Mrs C.L. Edwardes: You said, "Go to 50." Would you accept 50?

Ms S.M. McHale: I would like to debate that, because 55 and 60, when putting a child into that sort of family environment, are not in the child's best interests. For the purpose of trying to seek a compromise and to get this Bill moving, I think I could say - I have not spoken to my colleagues - 50, not 55, for the second child, because I believe 55 is far too old. That is a value statement as it is, but, as the state minister, I am looking at putting a child into a situation, and I think 50 would be a compromise. I ask you to reflect on that.

Mr R.F. JOHNSON: I am delighted to hear that some sort of compromise is possible.

Ms S.M. McHale: Otherwise we will be here all day, and there are other issues that are just as important.

Mr R.F. JOHNSON: At the end of the day, I would prefer to see a compromise, rather than my amendment knocked out completely, because that would be of no benefit to children who need to be adopted or to those prospective adoptive parents who want to share their love, warmth and family environment with a child who needs adoption. The minister is saying to me that she will definitely not agree with my amendment under any circumstances.

Ms S.M. McHale: No.

Mr R.F. JOHNSON: She will not?

Ms S.M. McHale: No.

Mr R.F. JOHNSON: On that note, I will sit down.

Mrs C.L. EDWARDES: Picking up on the minister's proposal to reach some form of compromise, I have amendments to the member for Hillarys' third amendment. I move -

> Subparagraph (iiib) - To delete "55" and substitute "50".
>
> Subparagraph (iiic) - To delete "60" and substitute "55".
>
> Line 10 of the amendment moved by the member for Hillarys to page 14, after line 25 - To delete the numeral "60" and substitute "55".

The minister said by interjection that she would accept 50 but would not accept 55. However, if she is already prepared to accept that there is a difference between the adoption of the first child and the adoption of the second, third or fourth child, and she is prepared to accept a further five-year gap, it would seem to be reasonable, if she accepts that the situation is different for two prospective adoptive parents in a second prospective adoption, that there be a further age gap. I put to the minister that it does reflect her concern about the ages. The minister has said that 75 and 80 are far too old. I do not know how, as the Minister for Seniors, she will go out and sell that.

Ms S.M. McHale: It is too old to be a parent and managing a child. I think we need a bit of realism in this debate.

Mrs C.L. EDWARDES: I do not accept the minister's view on that. I believe it is discriminatory, particularly when a much younger parent is involved. However, given that the Parliament has already agreed that there should be an age criterion, and given that the minister is concerned about the older of the two prospective parents - it does not change the circumstances with single people whatsoever - there is a need to decrease the age gap. My amendment does that. It decreases that gap so that the older of the parents will be 50 and 55 respectively. The minister said that people get older and when they are in their seventies, they die. If there is a younger person, the situation is exactly the same as it would be if there were a single person. It is no different. Therefore, the minister is discriminating against a married couple if she does not accept some difference in the age gap. A single person may be 45 or 50. The member for Hillarys' amendment allows that situation to stay in place. My amendment further reduces the age gap for the older of the two parents. If the minister's concern is still that the older person might die as he moves into his seventies or eighties, that is no different from dealing with the younger parent, and the situation would be the same if a single person were involved - exactly the same. Therefore, the minister's rationale can sit quite well.

I urge the minister to consider the amendment. As we have indicated before, we want to work in a bipartisan way on adoption, and we do not want to see a level of discrimination against married couples, when the age of the older person is greater than that of a single person. We are living longer and healthier lives. All the statistics point to that. Those who are born today will live even longer and healthier lives. This legislation will be changed again, but I do not think that the figures that have been projected for 10 or 12 years hence match. There is a greater argument now for the proposed gap between two prospective adoptive parents who are married. It will preserve the situation of the single person and that of the younger of the two prospective adoptive parents.

Ms S.M. McHALE: I indicated to the member for Hillarys that he should consider 50 as a compromise. I did say not 55, and I do not agree that we should look to 55 for the same arguments. I am trying to find a way forward. However, I believe that to bring down the figure to 50 does not take account of some of the very real stories and experiences of people who have been adopted by older parents.

Mrs C.L. Edwardes: But some of those studies are very old.

Ms S.M. McHALE: It is anecdotal stuff; I accept that. There was one study, and it was pointed out by the member for Churchlands that it was done in the 1980s.

Mrs C.L. Edwardes: Some of the people to whom you are talking, though, are now much older.

Ms S.M. McHALE: Yes.

Mrs C.L. Edwardes: So you are talking 30-odd years ago in some instances.

Ms S.M. McHALE: That is where they are in their life cycle. They are at that age when they are finding that their parents have died when they want them to be there to be grandparents. The children want to be adopted into environments in which they have grandparents, but typically they would not be in circumstances the member is talking about; that is, being placed with older parents. When that happens a number of factors start to be the norm. The children have less of an opportunity to have grandparents and less of an opportunity to have an extended network of aunts and uncles, because typically the aunts and uncles will be much older. When adopted children are at an age where they can have children, their parents will not be of an age at which they can typically be active grandparents. These are the realities of the stories that the member for Kingsley and I have received. Yes, they are anecdotal, but they are some of the experiences that I am taking into account when trying to shape a sensible compromise position. I do not accept the second amendment of the 55 years age limit. I believe that 50 years is reasonable. The in vitro fertilisation legislation proposed an upper age limit of 50 years. I could tolerate an upper age limit of 45 years for one party and 50 years for the other, but to go to 55 years compromises the arguments that I have been putting on the interests of the child to a point where I do not think it is acceptable. I do not know whether there is a way that we could deal with this clause at a later stage.

Mr R.F. Johnson: What are you saying?

Ms S.M. McHALE: I would be prepared to look at an upper age limit of 50 years.

Mrs C.L. Edwardes: Is that for first and subsequent children?

Ms S.M. McHALE: Yes.

Mrs C.L. Edwardes: That defeats your argument, because the issue is that subsequent children mean that there is already another older child.

Ms S.M. McHALE: Yes, but it should be remembered that my position is an upper age limit of 45 years for the first child and 50 years for the second child. We could incorporate the two age limits of 45 and 50 years into one, but I am not prepared to accept an age limit of 55 years. Therefore, either we keep the situation as it is and vote against the member's amendment or we look at a compromise and having an upper age limit of 50 years for both the first child and subsequent children. As I indicated when I suggested 50 years, I am not prepared to accept the member's proposed upper age limit of 55 years for subsequent children.

Dr E. CONSTABLE: I am a bit amused listening to this debate, because it shows how difficult it is to set arbitrary age levels. I have a suggestion, once we have dealt with the amendment before us, that may solve the problem, or at least develop thinking in this area, which may help in another place where this clause might be dealt with, again if the minister is willing to make some change. I merely foreshadow that I have an amendment if this one fails.

Ms S.M. McHale: It might be helpful if you were to foreshadow it.

Dr E. CONSTABLE: If a full stop were inserted after the word "child" in the third line of paragraph (iiib), I think that would solve the problem. The same applies to paragraph (iiic): if a full stop were inserted after the word "child" in the third line, it would read, "50 years older than the child." When the member for Hillarys phoned me about his proposal, I thought that was what he was proposing. I did not know until I read the proposed amendment much later, that he was trying to set an upper age limit as well. That is where I think we get into trouble. This deals with the situation in which a single woman of 45 years can apply to adopt an infant. It also allows a married woman - let us assume she is the younger of the two in the partnership or marriage - to apply. That is much fairer. Let the experts who assess parents on a whole range of bases decide whether applicants will be good parents for the child who is awaiting adoption. If the full stop were to be inserted there, I believe it would solve everyone's problem. It will go part of the way towards dealing with some of the issues that I have had with establishing arbitrary age levels. It will also get over the hurdle of discrimination against younger married women or younger members of a partnership. I put that proposal for the minister to consider. It may just solve the problem that the minister has been grappling with for the past hour or so.

Ms S.M. McHale: In the second part of your proposal, are you proposing to put a full stop after the word "older"?

Dr E. CONSTABLE: No, after the words "older than the child". It is the same for both parts of the proposition.

Ms S.M. McHale: That is suggesting that the older person can be any age.

Dr E. CONSTABLE: I am speaking theoretically, but it is certainly the case that a single woman trying to adopt a second child could do so up to the age of 50 years. I am saying we should let this part of the legislation apply to the younger member of a married or de facto couple. That would solve my problem, and it would certainly solve the problems of the members for Hillarys and Kingsley. I think it also goes close to what the minister was saying she would be prepared to accept as a compromise or to think about. My view is different from that of most of those who have spoken on this issue and it is that there should be no age limit, but if there is to be one, I sincerely believe that it should apply to the younger member of the married or de facto couple. At least that would be fair when comparing that person with a single person who is able to adopt up to the age of 45 years.

The ACTING SPEAKER (Mr P.W. Andrews): This might be an opportunity for me to clarify exactly where we are. There are a couple of procedural problems. I will first offer some technical advice and then we will see where we are going. To sum up the situation, the member for Hillarys has moved three amendments en bloc. The member for Kingsley has moved an amendment to the third amendment. If the amendments are accepted or rejected, at the moment that will be on the basis of the three being treated en bloc. Therefore, if there were a move to accept the third amendment, it would mean that the minister was agreeing to the first two. I am considering that we split the three amendments moved by the member for Hillarys.

Mr R.F. JOHNSON: I do not know that it is necessary. The amendment moved by the member for Kingsley is to the third of my amendments, but they all go together. It would not change the first two of my amendments at all.

Ms S.M. McHALE: I seek some guidance on the amendments. What is the procedure for us to come back to this clause?

The ACTING SPEAKER: You could move that it be postponed until a later stage. It would then become the last clause that we would consider.

Mr R.F. Johnson: I would agree. This is a crucial part of the Bill, and it affects a lot of people. I take it that we would defer the whole clause, because although my amendments refer to the first part of clause 29, the second part of clause 29 relates to other matters that we have not yet discussed.

The ACTING SPEAKER: That is correct.

Further consideration of the clause postponed, on motion by Ms S.M. McHale (Minister for Community Development, Women's Interests, Seniors and Youth).

[Continued on page 3395.]

Mr R.F. JOHNSON: Will any subsequent clauses be affected by the postponement of clause 29? If they will be, we could have a problem and those clauses also will have to be postponed. I seek your guidance, Mr Acting Speaker, on whether that is the case.

The ACTING SPEAKER (Mr P.W. Andrews): I will reconfirm everything we have discussed so far because a couple of points may have slipped under the member's guard. If we proceed to clause 30 and there is something in that clause that might be affected by clause 29, we can always postpone that clause as well. If there were a problem with the relationship of, say, clause 35 to clause 29, we can always postpone that clause and debate it after clause 29. In other words, we can come back to it.

Clause 30: Section 53 amended -

Ms S.M. McHALE: I move -

Page 15, line 27 to page 16, line 6 - To delete the lines and substitute the following -

Section 53 is repealed and the following section is inserted instead -

"

53. Placing children who cannot be placed under s. 52

The Director-General may place a child with a prospective adoptive parent with a view to the child's adoption even though the placement does not fulfil some of the requirements of section 52(1) if -

(a) the child is a sibling of an adoptee who is resident in the State; or

(b) the child cannot otherwise be placed.

".

This clause provides the director general with some opportunity to place a child with prospective adoptive parents, even if the prospective parents do not meet some of the placement criteria. The obvious criterion is age. This clause was constructed to deal with particular circumstances in which the age criterion might be an impediment to adoption. It allows two things to happen: first, it allows a brother or sister of a child who has already been adopted to be adopted by the same family, even if the age criterion cannot be met by the family. It recognises that a brother or sister of the adopted child could be overseas or in this country and allows the sibling to be adopted by the same family. Secondly, it allows the director general to place a child who cannot otherwise be placed. That takes account of some of the very complex circumstances and characteristics of children, particularly in overseas adoptions. They might have severe behavioural difficulties or severe disabilities or they might have been highly institutionalised and may well suit a particular family that cannot meet some of the criteria. It gives the director general the capacity to be flexible in adoptions to provide those opportunities. This amendment is necessary because, as it stands, proposed subsection (2)(b) refers to a sibling of an adoptee who is resident in the State. When I read that closely, I realised that it excluded brothers and sisters of adopted children who live overseas.

Mr R.F. Johnson: Or interstate.

Ms S.M. McHALE: Yes, or interstate. That was not sufficiently flexible. This clause might be seen currently as not aiding adoptions. I thought there should be a capacity to allow a couple who already has one adopted child to adopt that child's brother or sister, notwithstanding that time might have elapsed and they do not meet the age criterion. It is a very sensible amendment, which removes the requirement to be resident in the State from the circumstances under which a sibling of an adoptee can be adopted.

Mr R.F. JOHNSON: I am delighted to hear the minister say that she wants to be flexible in adoptions. That is all the Opposition has been asking for.

Ms S.M. McHale: Well, you have it.

Mr R.F. JOHNSON: We do not quite have it yet. The minister has not given us a complete commitment. I will agree with her amendment if she will agree with mine.

Ms S.M. McHale: No, thank you.

Mr R.F. JOHNSON: All right. What about the amendment moved by the member for Kingsley?

Dr E. Constable: Or the one that I will move?

Mr R.F. JOHNSON: Yes, what about the amendment that the member for Churchlands will move? I can see the logic and the sense in the amendment moved by the minister. I am glad that she has had a chance to read the Bill to determine whether there are flaws and that she has made this decision. There are flaws in the Bill, otherwise the Government would not be amending clauses at this stage.

Ms S.M. McHale: No; there is room for improvement.

Mr R.F. JOHNSON: If clauses need to be improved, there are flaws, and the minister has other amendments on the Notice Paper.

I can understand that an adoptee's siblings obviously would be far better off within the adoptee's family environment, so that as much of the family is kept together as possible. Should a problem with the age criterion come into play because of the current legislation, I support 100 per cent the director general having the authority to disregard that criterion or other areas that could prevent the adoption of other siblings. We want the best thing for the children. The best thing for the children is to keep them together for them to grow up in a more stable environment if the prospective adoptive parents who fall outside the age criterion are prepared to offer the siblings of the adoptee a loving and caring home. I am glad that some commonsense is being reflected in this legislation by way of the minister's amendment. I am praising her for moving this amendment because it is commonsense. It is in the interests of not only the child who has been adopted but also the adoptee's brothers or sisters. Hopefully, that will help all of them to grow up to be stable adults. The Opposition agrees with this amendment. We hope that the minister will agree to the amendment moved by the member for Kingsley.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 31: Section 58 amended -

Dr E. CONSTABLE: Why is this amendment necessary? The Act requires that a person must give 60 days notice before filing an application, which must be either delivered to the department or sent by registered mail.

Why is that being changed? Surely it is very important to make sure that the notification arrives and is recorded in some way. Constituents have told me - and I have no reason to disbelieve them - that they have sent something to a government department and been told that it never arrived. Something as important as this should be properly recorded. I can think of no reason to change the method of postage to ordinary mail. Ordinary mail reaches its destination most of the time. Surely this is such an important issue that there should be no room for the notification of an application to go astray. The applicants will want to be certain that it arrives and is recorded. Administratively it is a minor matter, but it involves a major decision by the applicants. Surely every protection possible should be provided for not only the person who applies but also the officers in the department. Hand delivery, a record of which is given to the applicant, or registered mail protects both sides.

Ms S.M. McHALE: This was considered to be a way of making the application process slightly easier and less onerous for applicants.

Dr E. Constable: What if it goes astray?

Ms S.M. McHALE: The application form is acknowledged when it is received by the department.

Dr E. Constable: What if it went astray when someone thought it had arrived?

Ms S.M. McHALE: The individual would ask the department why it had not acknowledged the application.

Dr E. Constable: That would delay the application for another 60 days. It just seems unnecessary to change what has been a tried and true procedure.

Ms S.M. McHALE: It was considered an easier procedure for applicants who otherwise must go to the post office to register the mail.

Dr E. Constable: I can understand why it has changed. However, it is a pity that it is being changed.

Ms S.M. McHALE: It was done out of consideration for the applicants to make it easier for them.

Dr E. Constable: Is it not more important to protect both sides?

Ms S.M. McHALE: There are ways of doing that. If the application is not received, the department will not acknowledge it and the applicant will ask where it is.

Dr E. Constable: We are talking about the notification that people will apply to adopt. If that goes astray, they will be told that they did not provide 60 days notice of application.

Ms S.M. McHALE: The department received feedback that the process could be easier. This was considered to be one way of doing that. If the application is not acknowledged, then the person -

Dr E. Constable: It is not about the application; it is about notification that a person intends to apply. It reads -

> A person is not to file an application for an adoption order in relation to a child unless, at least 60 days before the application is filed, the persons notify the Director-General . . .

That must be done either in person or by registered mail. I raised this because I sent a very important letter to Queensland three weeks ago and it did not arrive.

Ms S.M. McHALE: This applies when applicants already have a child in their care. It is an application to proceed with the adoption order, after the child has been placed with the couple or the individual.

Dr E. Constable: Even so, no matter what, they would not want anything to go wrong. It is equally important even at that stage.

Ms S.M. McHALE: The department will follow through the processes.

Dr E. Constable: Will the minister assure me that there are ways of doing that?

Ms S.M. McHALE: The child would have been placed and the adoption would proceed. The department assures me that it is in contact weekly with the adopting couple. If the application had not arrived within a week or 10 days, the department would ask the adopting parents where their application was. It is a very predictable process.

Dr E. Constable: There needs to be checks and balances because things can go wrong with the mail.

Ms S.M. McHALE: Things can go wrong, but the department is in weekly contact with the adopting parents. I have no doubt that if this part of the process were not dealt with within a couple of weeks, the department would ask the parent or parents where the application was.

Clause put and passed.

Clause 32: Section 59 amended -

Dr E. CONSTABLE: These proposed amendments to section 59 provide that an application to adopt a child whose birth parent has died cannot be lodged without the birth parent's relatives being notified. What would happen if there were no known relatives? What would happen if the only living relative was the other natural parent of the child being adopted, who may have had nothing to do with the child? What procedures are in place to search for relatives? How will it be known whether there are relatives?

Ms S.M. McHALE: If there are no known relatives, the director general is charged with completing the approval process.

Dr E. Constable: I assume it applies to the birth mother.

Ms S.M. McHALE: It would apply to either.

Dr E. Constable: It applies to only one of those people. What if the other one is alive?

Ms S.M. McHALE: I am smiling because I have had this discussion.

Dr E. Constable: It is not clear on the first reading at least.

Ms S.M. McHALE: It is section 10 of the Interpretation Act, which states that a reference to a parent means one or both parents.

Dr E. Constable: If a birth parent died and the other parent was still alive, would that parent be informed of the adoption?

Ms S.M. McHALE: The other parent would be notified anyway. Different provisions apply when the second birth parent will not or has not given consent. If one birth parent died, the other birth parent would have to give consent, if that birth parent were known.

Another section of the Adoption Act that is being amended deals with the circumstances in which the consent of both birth parents can be dispensed with.

Clause put and passed.

Clauses 33 and 34 put and passed.

Clause 35: Section 66 amended -

Mr R.F. JOHNSON: This clause will delete the phrase "for at least 3 years," in section 66(1)(b) of the Adoption Act 1994. However, I cannot see that phrase in section 66(1)(b). Has there been an amendment to the Act of which I am unaware? It is confusing and I cannot understand it. Will the minister explain how the House can delete a phrase that is not in the Act; or does the clause relate to the gay and lesbian legislation?

Ms S.M. McHale: It is consequential to the legislation and relates to someone who may be adopted.

Mr R.F. JOHNSON: I want to get this correct because I do not want to agree to a clause in a Bill about which I am uncertain. The amendment by this clause to the Adoption Act 1994 will delete a phrase that does not appear in the Act. Will the minister explain to me and to the House how we can delete a phrase that is not in the Act; unless the minister is testing us?

Ms S.M. McHALE: I think the parliamentary drafters are testing us all! The problem was created by the consequential amendments to the gay and lesbian reform legislation. The phrase "for at least 3 years," was inserted after "in a de facto relationship" wherever those words occurred in the legislation. The addition of those words in an Act would usually have some logic to it, but it did not have logic when it is related to a person who may be adopted. The practical result of the drafting, therefore, is that a person may be adopted if that person is living, and has lived, in a de facto relationship for less than three years.

Mr R.F. Johnson: A person may be adopted if that person has been living in a de facto relationship? Will you say that again?

Ms S.M. McHALE: The legislation was amended consequential to the gay and lesbian laws to state who may be adopted. Section 66 of the Act states that subject to subsection (2), a person may be adopted if he or she is a child. The Act previously referred to someone who is a child and is not, and has not been, married.

Mr R.F. Johnson: Those are the words in the Act I have with me.

Ms S.M. McHALE: The gay and lesbian legislation inserted the phrase "or in a de facto relationship, for at least 3 years,". The problem is that the unintended consequence of that amendment, as the Act stands, is that theoretically somebody who had been in a de facto relationship for one year, two years or two-and-a-half years

could be adopted. I know that it is hard for the member to get his head around the clause because he does not have the words of the Act. The Act currently states -

(1) Subject to subsection (2), a person may be adopted if he or she -

(a) is a child; and

(b) is not, and has not been, married or in a de facto relationship, for at least 3 years . . .

The unintended consequence of that amendment is that theoretically it allows the adoption of someone who is 17 and a half years old and who has been in a de facto relationship for one or two years. The intent of the legislation was that someone married or in a de facto relationship would not be eligible to be adopted.

Mr R.F. Johnson: Absolutely! Who would want to adopt somebody who is married?

Ms S.M. McHALE: That is right. However, the drafter made an error in the consequential amendments to the Adoption Act. We are therefore removing the phrase "for at least 3 years," to clear up the mess created by the amendments. Have I made that clear?

Mr R.F. JOHNSON: Yes, fairly clear. I appreciate that the minister has cleared up what seemed to be an absolute nonsense. Once again, legislation has been drafted that has made a nonsense of another Bill. The gay and lesbian law reform Bill has made a nonsense of the 1994 Adoption Act.

Ms S.M. McHale: By the consequential amendments.

Mr R.F. JOHNSON: I accept that. However, it shows us the trouble that the gay and lesbian law reform Bill has caused in many areas apart from its own area.

Proposed subsection (3) that is to be inserted after section 66(2) states -

A person cannot be adopted by a relative of the person, other than a step-parent.

A concern has been expressed by some other relatives who would dearly love to adopt a child within that family unit. Recently I received a letter from two grandparents who desperately want to adopt their two grandchildren. Unfortunately the children's mother and father were killed in a road accident, and the grandparents were left to look after the children. The children are very young and have been calling their grandparents mum and dad. The grandparents did not correct that, because they felt that the children would be more comfortable if they could continue to call them mum and dad; they did not want to go through the trauma of telling them that they would have to call them grandma and grandpa, or whatever term they might have used. These grandparents were very concerned that they would not be able to adopt these children and continue to act as their mother and father. I agree with the minister in this area. Although I have great sympathy for these grandparents, who for the very best of reasons would like to adopt their grandchildren because of the tragic death of the children's parents, I believe it would put out of sync the relationship between grandparents and grandchildren. As I have said previously, they would have the option of applying for a parenting order to become the legal guardians of the children. Would that be done through the Guardianship and Administration Board or the Family Court? Would a parenting order make the grandparents the legal guardians?

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: Is the term "guardian" still used?

Ms S.M. McHale: The term is now "parental responsibilities".

Mr R.F. JOHNSON: I have a concern about the Guardianship and Administration Board, particularly in the guardianship area.

Ms S.M. McHale: It would not go to the guardianship board.

Mr R.F. JOHNSON: That is a relief. Would the parenting order be made by the Family Court, and would that to all intents and purposes give these grandparents the right and the responsibility to parent their grandchildren in the same way that the children's parents would do? I will not oppose the clause, because I agree with the main trust of it. Grandparents are not parents. Although I sympathise with the grandparents, aunts and uncles of children who need to be adopted, I believe a parenting order is the way to go, rather than upset the family structure of having grandparents, aunts and uncles and brothers and sisters.

Clause put and passed.

Clause 36: Section 67 amended -

Ms S.M. McHALE: I move -

Page 18, after line 13 - To insert the following subclause -

(2) After section 67(3) the following subsections are inserted -

"

(4) For the purposes of subsection (1)(a) if the step-parent is married to a parent of the child and before the marriage those persons were living as de facto partners, the period of living as de facto partners may be included when calculating the period referred to in subsection (1)(a).

(5) For the purposes of subsection (2) if the persons referred to in subsection (1)(b) and (c) or the carers referred to in section 66(2) are married and before the marriage those persons or carers were living as de facto partners, the period of living as de facto partners may be included when calculating the period referred to in subsection (2).

".

This is a slight amendment and does not alter the material meaning of the clause. The clause as it is written at the moment states -

. . . and has been married to, or in a de facto relationship with, a parent of the child for at least 3 years;

It has been pointed out to me that that means that the parents have to have been married for three years or have to have been living together for three years. It does not take account of the cumulative time for which they have lived together. In other words, if they have been living together for one year and have been married for two years, that cumulatively will be three years, which will satisfy the criterion of having to have lived together for three years . Unfortunately, the way the clause is drafted does not allow for the cumulative time to be taken into account.

Mr R.F. JOHNSON: Although the minister has moved an amendment to this clause, I have made a note against my copy of the Bill about whether this will apply also to the gay and lesbian law reform legislation.

Ms S.M. McHale: No. The justification for the amendment is to bring the step-parent arrangement in line with the arrangement for married and de facto couples, for whom the minimum period of living together is three years; for step-parents the three-year requirement had been omitted from the Act. Under this amendment they will all have to satisfy the minimum three-year period.

Mr R.F. JOHNSON: Whether it be living together or married, or a bit of both, it will be cumulative?

Ms S.M. McHale: Yes. The amendment will allow for that time to be cumulative.

Mr R.F. JOHNSON: I have a bit of a concern, because sometimes there needs to be a commitment by people who want to adopt a child. They have a responsibility to show responsibility by making that commitment. However, the minister is allowing people, by virtue of this amendment, to live together for a while and then get married if they want. There is no need for people to make a firm commitment. I would prefer it if people had to be married for three years. However, obviously that will not happen, and I will not go to the wall on this amendment. I had made a note about how this clause will read in the Bill. It will read differently because of the amendment moved by the minister. The minister has explained her rationale for that.

Ms S.M. McHALE: This amendment will make it easier for step-parents to take account of the time they have lived together and/or been married. It is a positive move.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 37: Section 68 amended -

Mr R.F. JOHNSON: I had put a question mark against this amendment, because I was wondering about its relevance. What is the rationale behind this clause?

Ms S.M. McHALE: This clause does not exclude the possibility of step-parenting adoptions from occurring. In order for that to occur, the Family Court needs to determine that the adoption of the child by the step-parents is preferable to a parenting order. In this circumstance, there are usually two birth-parents.

Mr R.F. Johnson: I should hope so.

Ms S.M. McHALE: It refers to a couple who separate, and one party marries somebody else; and that newly-formed couple wants to adopt a child from the previous relationship. That is a fairly serious re-arrangement of

family relationships. The intent of this clause is to point out that there is another way of approaching this issue without changing forever the parenting linkages, and that is by seeking a parenting order. Step-parents who want guaranteed guardianship or parenting could seek a parenting order rather than make the final decision of adoption, which severs the parental rights of the other person and that other person's family. The courts could determine that an adoption, in the case of a step-parent, is preferable to a parenting order.

Mr R.F. JOHNSON: Can the line of inheritance be altered because of the proposed paragraph the minister is seeking to insert in the Act? The minister referred to a couple who have had a child and then separate. The father goes interstate or overseas and wants nothing to do with the mother of the child or the child. The mother then finds another partner who becomes the child's stepfather. That stepfather has two options: he can go to the Family Court and either ask for a parenting order or to officially adopt the child.

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: The intent of this clause is to provide that step-parent with two options.

Ms S.M. McHale: It provides those two options, but it points out that the couple needs to prove to the court that an adoption is preferable to a parenting order.

Mr R.F. JOHNSON: As the minister has said, adoption is final. With an adoption, the step-parent becomes the legal parent of that child.

Ms S.M. McHale: And the other parent has no rights or obligations to that child from thereon in.

Mr R.F. JOHNSON: Exactly. The parent could have gone interstate or overseas and does not exist any more as far as the child is concerned. I had a concern about the possibility of the child missing out on any inheritance or benefit when the natural father dies. If the child has been adopted, he or she would not be considered to be a child of the birth father. Would the child miss out on any inheritance? Conversely, if the child were not adopted by the step-parent, and if the mother died and the step-parent has only a parenting order, does the parenting order stand up in law in the same way as an adoption order? For instance, if the step-parent then died, he may have had children from another marriage or another partner, and everything would go to the other children and would not go to the child of that marriage or de facto relationship. The original wife might have a child and a home; someone might come along and become the step-parent to the child; the original father might go walkabout and might not want to know about the child or the mother of the child. I have a concern if the mother were to die. Normally, if she has lived in a de facto relationship for more than two years, her partner automatically has a claim on whatever she owns. If he dies, the child, who has not been adopted but has been subject to a parenting order by the stepfather, could miss out if the stepfather had other children. That child could miss out on what would normally be expected to be his or her rightful inheritance from his or her mother. I would prefer the child to be adopted rather than a parenting order being issued, if it gives the child more certainty and the ability to receive what should rightfully be his or hers if the mother and the stepfather die.

Ms S.M. McHALE: Inheritance rights are important. Once an adoption order is granted, the non-custodial parent - the person who has left - ceases to be the child's legal parent and the step-parent becomes the child's legal parent. In the case of an adoption - this is the case regardless of whether it is a step-parent adoption, a stranger adoption or any other sort of adoption - it means that the child will not inherit from the other parent - from his or her birth parent - unless specifically named in the will. There is a way around it, but the child is no longer the child of that parent. Therefore, when that birth parent dies and he or she leaves the estate to be divided among five children, the child who was adopted is not one of those children. Similarly, if a parenting order were granted, the child would not automatically inherit from the step-parent. Because the parental relationship still exists between the stepchild and one biological parent, as that parental relationship has not been broken, that child is still legally the child of the birth parent and subject to the rights of inheritance as a child of that birth parent. If a person has a step-parent relationship with the child and wants that child to be included in the will, that child needs to be named in the will.

We are not creating a new provision. The capacity to adopt in a step-parenting relationship exists now, and will continue to exist. The underlying issue, though, I suppose, is that the child still has a living parent, and perhaps a better way of maintaining and ensuring the parenting obligations and the guardianship on a day-to-day basis is by virtue of a parenting order. However, if the couple genuinely believes that the best thing for the child is for the stepfather or stepmother to adopt, they can do that and go to court.

Mr R.F. Johnson: They would do that through the Family Court of Western Australia?

Ms S.M. McHALE: Yes, through the Family Court.

Mr R.F. Johnson: Through a parenting order or even adoption?

Ms S.M. McHALE: Through an adoption order.

Mr R.F. Johnson: Would they have to go to your department first to seek an adoption order, or could they seek that in the Family Court? In other words, could they go to the Family Court and say that the step-parent would really like to adopt his or her stepson or stepdaughter?

Ms S.M. McHALE: The department is always involved in an adoption order.

Mr R.F. Johnson: Is the department the first port of call, or do people go to the Family Court? If a parenting order is available, do they go to the Family Court and say that they know that a parenting order is available but the step-parent would really like to adopt the child, and ask the court to make a decision? Does the department come in then; or when does it come in?

Ms S.M. McHALE: Generally speaking, the process of a step-parent adopting a child is similar to the usual process of adopting a child. Obviously, one knows who the adoptive parents will be, so there is no question of allocating the child. The information about the responsibilities of adoption are still provided, the person still needs counselling on the rights and responsibilities of being an adoptive parent rather than a step-parent, and the consents of the other birth parent must be sought. The department is involved in a step-parent adoption.

Clause put and passed.

Clauses 38 and 39 put and passed.

Clause 40: Section 74 amended -

Mr R.F. JOHNSON: I have a concern with this clause, which will stop adoptive parents from changing the name of the child whom they adopt, except in special circumstances. That is what the clause states. I am sure the minister will give me some reasons why she believes that should be the case; that is, that adoptive parents should not change a child's name, except in very special circumstances. I assume that by exceptional circumstances, the minister means when a child comes from another country, and the name that child has been given in the other country is "abandoned one" or "no parents". I believe that there are some very unusual names in some countries.

Ms S.M. McHale: They have some significance in our language that is not appropriate.

Mr R.F. JOHNSON: They have some significance that would not be pleasant in Western Australia. I would be the first one to say that if a child has a name that has connotations that are not conducive to the wellbeing of that child or to the way in which that child is looked upon by people of the same culture, that would be a very wrong thing indeed. However, I also believe that when children come from another country and are adopted by Western Australians, it is in the best interests of those children to have a name that is synonymous with children's names in Western Australia. I believe that very often those children would fit in much more easily if they had a western-style name. That does not detract from the fact that those children are from a different country and a different culture, and that they will be encouraged to take a great interest in the culture and the traditions of the country from which they have come. Some people with whom I have spoken have said that they much prefer to have a name that does not put them out of place within a community. Already, some people feel a little isolated if they come from a different country and a different culture and they are put with predominantly European Australians in a school environment. They perhaps feel very different from the other children in that community.

Nobody has come to me and said, "Look, I really wish I had never been given a western-type name. I would much prefer that I had kept the name I was given in my country of origin." Nobody has said that to me, and nobody has written to me and said, "I wish I had never had my name changed by my adoptive parents." Therefore, I cannot see why it is so important for the minister to put in legislation the fact that adoptive parents cannot change their adopted child's name. At the end of the day, those people become the parents and, like all other parents, they may feel that it is in the best interests of the child to give that child a name that they believe will not make him stand out from all the other children with whom he will be playing at kindergarten and with whom he will be mixing. Some names are very hard for children to get their tongues around, and adults also find it difficult to say some of them. Will the minister explain to me - I would like her to give me a good reason - why she felt it necessary to put this clause in the Bill?

Ms S.M. McHALE: The first thing I will say is that this was a recommendation of the legislative review committee, which recommended that the Act be amended to prevent the changing of an adoptee's first name, except with the approval of the Family Court. Therefore, we are incorporating the recommendation of the review committee. The review committee referred to the name of the child as being a significant part of his or her original identity. In some instances it is the name given to the child by the birth mother or the birth parent.

I will correct the member's opening statement. This Bill does not prevent the adoptive parent from seeking to change the child's name or to give the child a new name. I can see the member is frowning. The Bill states that the name cannot be changed except in special circumstances. It does not say exceptional circumstances; it says

special circumstances. Therefore, the decision is one for the Family Court judge, having regard to that principle and the principle of identity. A number of situations might occur. The obvious one is that the name of the child is inappropriate. The child might have been given the name of the orphanage in which he or she was placed. The child might have been given the name of a town or a name that has a derogatory meaning in our language or that sounds like a derogatory word in our language and which could cause ridicule or embarrassment. Those are obvious circumstances. The child may not be given a name, in which case it is open to the adoptive parents to consider a name. In those circumstances the Family Court would still make a declaration. If the baby were called baby 1, A or X, the adoptive parents would still need a declaration from the Family Court to name the child.

Mr R.F. Johnson: That is extreme.

Ms S.M. McHALE: It is all part of the adoption order which goes to the Family Court. It is done by consent, so when people go to the Family Court, they are not confronting the judge and the order is usually done by paperwork. If a child were called Siu-lin, for example, the adoptive parents could give the child the additional name of Angela or whatever and then the surname of the adoptive parents. For instance, the child could be called Siu-lin Angela Smith. There is nothing to stop the parents calling the child by its second name, as many parents do. The purpose of the amendment is to give effect to the Adoption Legislative Review Committee's recommendations and to recognise that a child is adopted with some history and connection to his or her birth parents. It is about the justification for saying that the legal name should be that given to the child at birth. For example, a child who has been adopted from overseas and is three or four years old would have had his or her name for three or four years. If the child is adopted by a couple here, the question is whether it is in the child's best interests suddenly to be given a different name. It may be, but the judge takes those things into account when determining the principle of the sense of identity.

Mr R.F. JOHNSON: The minister said that this clause is as a result of the legislative review committee's recommendations of 1997. Did the review committee receive submissions from individuals or organisations or did it think that this was a good idea and included it in its recommendations? Did the review committee base its recommendations on the experience of a number of children who had been adopted or did it merely think that it was a good idea?

Ms S.M. McHALE: I am not able to tell the member the number of people who made submissions around the recommendation. I can tell him that the logic and justification was that a person's name is a significant part of his or her identity and that, for the adoptee, the first name is an important link to his or her birth family. A person's name is now acknowledged as a significant factor in identity formation. The review took account of the New South Wales Law Reform Commission report into the New South Wales Adoption of Children Act. It looked at other literature on the same issue. The New South Wales review drew attention to the issue of changing names, particularly for older children and those adopted from overseas. It concluded that the retention of the first name of overseas adoptees in particular provides a strong link to their cultural background. The provision is also part of the United Nations Convention on the Rights of the Child to which our nation is a signatory. Article 8 refers to respecting the rights of the child, to preserving his or her identity, including nationality, name and family relationships. Therefore, the legislative review committee took into account a combination of influences and literature and the fact that Australia is a signatory to the United Nations Convention on the Rights of the Child. I cannot tell the member this for certain, but I would be surprised if there were no submissions in support of that sense of identity.

Mr R.F. Johnson: Would they be from adoptive children?

Ms S.M. McHALE: I would think that they would be from parties involved in adoption, but I cannot tell the member because the report does not link the submissions to every recommendation, so I am making that supposition.

Clause put and passed.

Clause 41: Section 77 amended -

Ms S.M. McHALE: I move -

Page 21, after line 5 - To insert the following subclause -

(2) Section 77(3) is repealed and the following subsections are inserted instead -

"

(3) The Court is not to make an order under subsection (2) -

(a) if to do so would not be for the welfare and in the best interests of the adoptee; and

(b) unless the Court is satisfied that reasonable efforts have been made to notify all the parties to the adoption of the application.

(3a) Any person may apply for leave to intervene in an application under subsection (1) and the Court may make an order entitling the person to intervene in the application.

(3b) A person who, under subsection (3a), intervenes in an application under subsection (1), is to be treated as a party to the application with all the rights, duties and liabilities of a party, unless the Court orders otherwise.

".

The substance of the amendment relates to the adult discharge of adoption. That is the context in which we are looking at my amendment. Section 77 of the Act provides for an adoption order that has been in place for some time - it could be years - to be discharged under very specific circumstances. The Act as it stands provides that the court may make an order to discharge if, for instance, the adoption order was obtained by fraud, duress or other improper means, a consent relied on for the making of that adoption order was not an effective consent because it was obtained by fraud, duress or material inducement, or there is some exceptional reason that the order should be made.

My amendment takes account of some of the disquiet that was expressed when the Bill was available for public scrutiny that it did not provide for the adoptive parent to be notified of an application for discharge. The amendment is constructed in such a way that, for very good reason, every effort must be made to find the birth parents and notify them of the application to discharge. If the adoption order is to be discharged, the birth parents revert to being the legal birth parents because the adoption order has been discharged. Therefore, the adoption relationship will no longer be a legal entity and, in the absence of any other parents, the birth parents will resume their obligations as parents.

Sitting suspended from 6.00 to 7.00 pm

Ms S.M. McHALE: The amendment will deal with some of the disquiet and concern expressed by certain elements in the adoption sector who, curiously enough, believe that clause 41 is an anti-adoption clause. I do not accept that elements of the Bill are anti-adoption. However, I listened to the views of such people who stated that only the birth parents, not the adoptive parents, had to be notified about the discharge of an adoption order. The clause's current construction does not provide a requirement to inform the adoptive parents of the discharge of an adoption order.

Mr R.F. Johnson interjected.

Ms S.M. McHALE: I will go back to first principles. There are certain provisions under which an adoption order can be discharged. However, they relate to matters of fraud, duress or monetary inducement. An adoption order can be discharged only under particular circumstances. My amendment basically states that the court cannot make an order to discharge an adoption order unless it is satisfied that reasonable efforts have been made to notify all the parties to the adoption about the application. To be fair, all parties to the adoption should be notified, or every effort should be made to notify all the parties, including the adoptive parents.

Mr R.F. JOHNSON: I can see the logic behind the minister's amendment. If the department seeks to discharge an adoption order, it is responsible for ensuring that all parties are notified. It cannot notify just the relinquishing parents. It is essential that the adopting parents be notified that the adoption order that gave them the responsibility of caring for the child will be rescinded. That is commonsense. I take the minister's comments about her amendment on face value inasmuch as I believe that it will serve the best interests of all parties involved to an adoption; that is, the relinquishing parents, the adoptive parents and the adoptee.

Can an adoption order be relinquished when a child turns 18? If an adopted person over 18 years states that he or she no longer wants to be adopted by the adoptive parents, will that come be covered by the minister's amendment?

Ms S.M. McHale: That is a groundless basis.

Mr R.F. JOHNSON: Therefore, the amendment will come into play only in circumstances in which the adoptive parents have committed a fraud, such as making a false claim about their marital status on their adoption application. In the old days a couple would have been required to produce their marriage certificate. Of course,

these days the Government is letting almost anybody adopt children, so there would be no need to produce a marriage certificate. Is it correct that an order to discharge an adoption order is based only on the evidence that fraud has taken place during the application and placement of an adoptee and that that is the only criterion for relinquishing or extinguishing an adoption order?

Ms S.M. McHALE: An adoption order can be discharged only if the Family Court is satisfied that certain things have happened and that the adoption order was obtained by fraud, duress or other improper means. The court may make an order to discharge an adoption order if it is satisfied that consent relied on for the making of an adoption order was obtained by fraud, duress or material inducement - that is, money - or because there are exceptional reasons that the order be made. The fact that a family falls out or an adult adoptee has an argument or a feud with his or her adoptive parents has no legitimacy under the Act. Many people have the view that - this is a problem - adopted children can decide that they no longer want to be adopted. That reason is groundless. The only way an adoption order can be discharged is when fraud, duress, monetary inducement or improper means have occurred. The fact that an adopted person falls out with his or her parents does not give the person the right to have the adoption order discharged.

Mr R.F. Johnson: What do you mean by improper means? I thought you referred to exceptional circumstances?

Ms S.M. McHALE: As the Act is currently constructed, section 77 provides that the court may make an order to discharge an adoption order if it is satisfied that -

(a) the adoption order was obtained by fraud, duress or other improper means;

(b) a consent relied on for the making of the adoption order was not an effective consent because it was obtained by fraud, duress or material inducement; or

(c) there is some exceptional reason why the order should be made.

Mr R.F. Johnson: Is paragraph (c) to be deleted?

Ms S.M. McHALE: No. Those provisions are currently in the Act and will remain in the Act.

Mr R.F. Johnson: I suggest that under paragraph (c) there is an exceptional reason why an order should be made if an adoptee were to say that the adoptive parents had treated him very badly, and that there was dreadful friction and all sorts of dreadful things going on. That could be deemed an exceptional circumstance.

Ms S.M. McHALE: Yes. I can make it clear by saying that the amendment to the Act is in regard to who can apply to the court for an order to discharge. Currently, the Act provides that the Attorney General or the director general may apply for an order to discharge. The grounds upon which an order is sought are not being changed. The change to the Act is the insertion of a provision concerning an adult adoptee who has notified the director general of his intention to apply. It will give an adult adoptee the legal provision to apply to have the adoption order discharged.

Mr R.F. Johnson: That is what I said to you earlier but you said that was not the case.

Ms S.M. McHALE: No. The grounds upon which an order may be granted remain the same. There has to be fraud, duress, improper means, or a substantiation that the consent was based on fraud, duress or monetary inducement. Alternatively, there must be an exceptional reason why an order may be made.

Mr R.F. Johnson: What do you see as an exceptional reason? I asked earlier whether it could be that the adoptee had fallen out with the adoptive parents or that there were all sorts of aggravation and problems.

Ms S.M. McHALE: I said no.

Mr R.F. Johnson: You did say no, but I suggest that it could be an exceptional reason.

Ms S.M. McHALE: No, unless the falling out was due, for instance, to a life of continual sexual or physical abuse or emotional trauma. It is not the falling out; it has to be exceptional circumstances that the court determines. A falling out of parents would be a frivolous case brought before the court. An application based on sexual abuse could possibly be grounds.

Mr R.F. JOHNSON: I am very interested to hear the final remarks of the minister on this clause.

Ms S.M. McHALE: Just to recap: the amendment to the Act is to enable an adult adoptee to make an application to discharge. The grounds upon which an order for discharge would be made remain the same. There would have to be very serious circumstances; in essence, they would need to border on criminality. Fraud, duress, and material inducement are unlawful under the Act as it stands. Improper means and exceptional circumstances would include, for example, sexual and physical abuse, or some trauma. In the case of families who think that

an adult adoptee can simply go to the court and ask for the adoption to be discharged, that is groundless. There has to be a significant circumstance before a court will discharge an adoption order, because the consequences of discharging an order are very serious. They rescind the relationship and reintroduce the relationship with the birth parents, as I said earlier. It is very serious and significant. There would virtually have to be criminal activity involved.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 42: Section 79 amended -

Ms S.M. McHALE: I move -

Page 21, line 22 - To insert after "*Act"* the phrase "(*No. 2)*".

This amendment is necessary because of the existence of the Adoption Amendment Bill 2002.

Mr R.F. JOHNSON: This amendment is to page 21, line 22. Is the minister moving only the first amendment?

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: There is also a new clause to which the minister has not spoken. I presume she will speak to it?

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: The Opposition is happy to agree to the first amendment.

Amendment put and passed.

Mr R.F. JOHNSON: I want to clarify this with the minister. Page 9 of the Notice Paper has a second amendment. The only amendment we have discussed related to page 21, line 22. A new clause is mentioned at page 27, after line 24.

The ACTING SPEAKER (Mr A.J. Dean): Yes, which refers to clause 52.

Mr R.F. JOHNSON: The Notice Paper refers to clause 42.

The ACTING SPEAKER: It is a new heading, just like "Clause 42". "New clause" is a new heading. It is to be inserted at page 27, after line 24. It is close to clause 52. There is a new clause 53.

Mr R.F. JOHNSON: I find that somewhat misleading.

The ACTING SPEAKER: No.

Mr R.F. JOHNSON: I am sorry, Mr Acting Speaker; I do not want to argue with the Chair, but my opinion is that it is a little bit confusing. Even the minister thought the same thing as me. She thought that we were still on clause 42. The reference to page 27 is the only indication that we are not talking about the same clause.

The ACTING SPEAKER: We are discussing clause 42.

Mr R.F. JOHNSON: Yes, as amended. I take it that a new clause is to be inserted on page 27?

The ACTING SPEAKER: Yes. It is close to clause 53. Can we get to it?

Mr R.F. JOHNSON: We will get to it, Mr Acting Speaker.

Clause, as amended, put and passed.

Clauses 43 to 52 put and passed.

New clause 53 -

Ms S.M. McHALE: I move -

Page 27, after line 24 - To insert the following new clause -

53. Section 96 repealed

Section 96 is repealed.

This is a new amendment to repeal section 96 of the Act. I will give members the context in which these amendments are being considered. They relate to division 4 of the Act, which refers to contact and information vetos. We are probably moving into an area of some contention that requires debate and discussion of vetos and contact vetos. I will put on the record what we are proposing. Essentially, two types of vetos are contained

within the Adoption Act: information vetos and contact vetos. I will explain why the Government proposes to remove the capacity to place either an information or contact veto in the future. In two years the current information vetos that are in place will be removed. However, the current contact vetos that are in place will remain in perpetuity. It is important that members understand what we are doing with regard to information and contact vetos. The current information vetos that are in place will be removed in two years time. Therefore, section 96 of the Act must be repealed in two years. That was not picked up in the initial drafting of the amendment Bill. When I read the amendment Bill line by line in preparation for the consideration in detail stage, I picked up that error in the drafting. Section 96 of the Act must be repealed in two years. That is why we have proposed this amendment.

Mr R.F. JOHNSON: The new clause will repeal section 96 of the Act. A moment ago the minister said that contact vetos will remain in perpetuity.

Ms S.M. McHale: Those that are in place now.

Mr R.F. JOHNSON: That is not the case. Contact vetos are in place on adopting parents now. They will be extinguished when the child -

Ms S.M. McHale: I have another amendment to deal with that.

Mr R.F. JOHNSON: I know. It is important that what is said on this Bill in this Chamber is made clear because people will refer to it at a later stage.

Ms S.M. McHale: Hopefully they will read the whole of the debate in *Hansard* to get the full flavour of what we are doing.

Mr R.F. JOHNSON: I am sure they will read it ad nauseam. However, at this stage we are talking about contact vetos. The minister said that contact vetos will remain in perpetuity. That is not so in every case. As I understand it, contact vetos that have been put in place by relinquishing mothers will remain in place.

Ms S.M. McHale: Or adoptive children who are adults and have put contact vetos in -

Mr R.F. JOHNSON: We have not got to that; the minister said that herself. I want it made clear that presently contact vetos put in place by the relinquishing parents - the mother in most cases - will stay in perpetuity. However, contact vetos will be extinguished when children of adoptive parents who have put in place contact vetos reach the age of 18 years. I appreciate that the minister took on board the amendment I asked her to consider. That amendment concerns adoptees who, when they reach 18 years of age, wish to continue contact vetos that the adoptive parents have put in place. The contact vetos will be extinguished when the adoptees reach 18 years of age. When adopted children reach 18 years of age, they can reinstate contact vetos with regard to their birth parents. As I understand it, that will be covered by another amendment. I want to make sure that is what we are looking at here.

I am fully aware that under current open adoption plans there can be some form of no contact. I suggest, and I am fearful, that the department will try to avoid that situation. I get the impression that the minister and the department would like to see contact maintained all the way through the adoption process; that is, from the time that the child is adopted until he or she is 18 years of age and can make up his or her own mind about what to do. I am very concerned that, in some areas, that could cause a lot of damage to the adoptee. To give adopted children the best possible chance in life, they must establish a very firm, loving and caring relationship with the adopting parents so that they become a family unit. Very often interference from the relinquishing parents or their families can cause distress to the adoptive family unit. I have some concerns in that area about contact vetos, although I do not have a problem with contact vetos generally. Everybody has a right to know who their birth parents are and to know something about them. However, the rights and wishes of people who wish to keep contact vetos in place should be adhered to and respected. We are talking about the rights of everybody, including the rights of the adopted child to find out information.

Ms S.M. McHALE: Contact vetos can be placed by the birth parent, an adoptee over the age of 18 years or an adoptive parent on behalf of an adopted child under the age of 18 years. We are making provision in our amendments to allow for the contact veto that has been placed by the adoptive parent on behalf of the child to continue, subject to the adopted child making it clear within 12 months of reaching 18 that he or she wishes that contact veto to continue. That is the provision with regard to contact vetos. Section 96 is to be repealed in two years, because if it were not repealed, the Act would contain a section indicating that a person may lodge his or her wishes with regard to contact with the department but there would be no mechanism by which that could be taken any further. It makes no sense to leave in section 96. When contact vetos can no longer be placed in two years, there will be no need for section 96.

Mr R.F. Johnson: Some adoptees who are the subject of contact vetos at this time might decide of their own volition to put contact vetos back in place when they reach the age of 18 years. The department might still get inquiries from the relinquishing parents or the mother who may wish to try to establish contact with the adoptees by extinguishing or repealing section 96 of the Act. By repealing section 96 of the Act, what would occur in the event of a relinquishing mother or other parent trying to make contact with the child given up for adoption?

Ms S.M. McHALE: They would be told that a contact veto exists, and that they cannot make contact.

Mr R.F. Johnson: The letterbox will not be available.

Ms S.M. McHALE: The letterbox will continue, as it is a good mechanism. In the case of contact veto on behalf of a minor that is subsequently extended by the consent of the adult adoptee, the contact veto will have the full force of the law.

Mr R.F. Johnson: Basically, the letterbox facility still will be there.

Ms S.M. McHALE: The ability to communicate -

Mr R.F. Johnson: Will still go through the department.

Ms S.M. McHALE: It will still be there.

Mr R.F. Johnson: Is that even with children who reach 18 and lodge their own contact veto?

Ms S.M. McHALE: Yes.

Mr R.F. Johnson: In that instance, the department would correspond with the now-adult adoptee to say that it has an inquiry.

Ms S.M. McHALE: The birth mother or father would come forward and say he or she wants to make contact. It would be made clear that there is a veto. The person would be asked, "Do you want to reconsider your contact veto?" If the adoptee says no, the parent is told no. If the adoptee says yes, there will be some further action.

New clause put and passed.

Clause 53: Section 97 repealed -

Mr R.F. Johnson: Is it the case that every clause we are talking to will be renumbered?

The ACTING SPEAKER: The member is correct. To make things easier, we will refer to clause 53, as printed in the Bill. It will be renumbered 54.

Clause put and passed.

Clauses 54 to 56 put and passed.

New clause 57 -

Ms S.M. McHALE: I move -

Page 28, after line 29 - To insert the following new clause -

57. Section 100 amended

(1) Section 100(1)(d) is amended as follows:

(a) inserting before "where" —

" subject to subsection (3), ";

(b) deleting "18" in the second place where it occurs and inserting instead —

" 19 ".

(2) After section 100(2) the following subsection is inserted —

"

(3) An adoptee on behalf of whom a statement of wishes for a contact veto was lodged before the veto cut off day may —

(a) within 12 months after attaining the age of 18 years; and

(b) in writing given to the Director-General,

continue the effect of the statement of wishes and, in that case, subsections (1)(a), (b) and (c) and (2) and sections 102, 103 and 104 apply in

relation to the adoptee as if the adoptee were the person who lodged the statement of wishes or sought the registration of the relevant contact veto.

".

This amendment gives effect to the point I was discussing with the member for Hillarys; that is, it acknowledges that the amending Bill as first constructed would have created the situation that a contact veto placed on behalf of a minor by his or her adopted parents would cease. A question of natural justice arises. When reaching the age of 18, the adoptee under the current Act is able to make the decision for himself or herself whether to keep the contact veto in place. The new clause provides the opportunity for an adopted child, when reaching adulthood at the age of 18, to make a decision for himself or herself on whether the contact veto should continue. The language of the amendment provides that the contact veto will continue to have effect in those circumstances. The new clause will enable a person in those circumstances to express his or her wish that the contact veto remain in effect.

Mr R.F. JOHNSON: I am pleased that the minister has moved this amendment. I discussed this matter with her. We are talking about natural justice and people's rights, and about a young adoptee's rights when reaching the age of 18. I am fully aware that people in that position had concerns about a contact veto having been placed by parents on behalf of the adoptee for very good reasons. I have outlined those reasons already; namely, the new family unit needs to establish itself. Also, with the exclusion of outside influences, the child often has a better chance of being brought up in a stable relationship within the family environment. I am aware that some children when they reached the age of 18, or were about to, were very concerned that suddenly the contact veto was to be extinguished, and they would be left, as they saw it, vulnerable to unwanted contact from the relinquishing parent or parents. That would not be in the best interests of the child or the new adult adoptee when reaching the age of 18. I am pleased that the minister has taken that on board. It is a result of bipartisanship.

Ms S.M. McHale: It makes sense.

Mr R.F. JOHNSON: The new clause is in the best interests of the child when becoming an adult. Even at the age of 18 a person is a very young person. If they want to put a contact veto in place, they will have every real legal right to do so. I am pleased that the minister has taken it on board.

New clause put and passed.

Clauses 57 to 60 put and passed.

Clause 61: Section 106 amended -

Mr R.F. JOHNSON: The minister is moving to delete "Minister" and insert "Director-General", which is a concern because through this clause the minister is abrogating her responsibilities to some extent. This is an important issue and I do not agree that the minister should delete reference to herself and substitute the director general as the person to take action, which is no reflection on the capabilities of the director general. Ministerial responsibility should dictate that under normal conventions it be the minister with responsibility in this particular area. This provision has been in the Act for a long time, so one must ask why the change should be made? People more knowledgeable than us put it there for a very good reason. Perhaps the minister can tell me why she wants to take away that responsibility from the minister - the person with the ultimate responsibility in this area - and give it to a bureaucrat? Can the minister give me a valid reason for abrogating responsibility to the director general?

Ms S.M. McHALE: This provision is essentially an administrative function; no policy or ministerial direction or guidance is required. In this provision a licence is given to a counsellor or a psychologist to act as a mediator in the contact between an adoptee and the birth parent. Nothing in this process requires ministerial comment or influence. The assessment and recognition of qualifications and the referee checks are carried out by the Department for Community Development. I then receive a letter -

Mr R.F. Johnson: To approve or not to approve -

Ms S.M. McHALE: To sign.

Mr R.F. Johnson: Is it not for you to approve or disapprove the licence?

Ms S.M. McHALE: I approve through the granting of a licence, but, having dealt with a handful of these applications, I see no reason for the minister to be granting the licence. The provision basically seeks approval for a psychologist to operate in partnership with the department to mediate. Nothing in that process requires that a minister be involved in making this decision.

Mr R.F. Johnson: It could be argued that the accountability and integrity of the department -

Ms S.M. McHALE: I basically sign a certificate saying "Mary-Jo" has been given a licence for three years to act as a mediator. It is a contract between the department and the individual psychologist.

Mr R.F. Johnson: However, at the end of the day, you are responsible for the department.

Ms S.M. McHALE: Yes, but I do not sign the contract of employment of every staff member. I delegate that to the professional judgment and competence of the director general.

Mr R.F. Johnson: However, these people are not staff members but outside contractors.

Ms S.M. McHALE: Yes, the member is it quite right, but they are not paid. Having signed these certificates in the past, I am happy with this amendment. It is just a ceremonial signing process. I am confident that the department has gone through the process of reference checking, assessment and so on. It is an administrative task that should not require the minister -

Mr R.F. Johnson: Is it not some sort of check and balance by the minister on behalf of her department?

Ms S.M. McHALE: I could do that with every appointment, but it would be silly to expect a minister of the Crown -

Mr R.F. Johnson: If it involves only half a dozen certificates, it is hardly a big workload. At the beginning, this provision was put into the Act for a reason.

Ms S.M. McHALE: The review committee, which the Opposition supported, examined this provision, but I am not sure to what extent it argued in depth about its merits. However, it recommended that the director general grant the contact and mediation licence. I would not approve this if I thought there were some reason for the minister of the Crown to be signing the certificates to say that a particular person can be a mediation agent.

Clause put and passed.

Clause 62: Section 107 amended -

Mr R.F. JOHNSON: This clause is based on the same lines as the previous one. However, the previous clause dealt with licences to conduct contact and mediation services and this one deals with section 107 and the regulations regarding contact and mediation agencies. This section is also being amended be removing the word "minister" and inserting instead "director general". Can the minister provide a quick outline of why she believes that an amendment to this clause is also necessary, bearing in mind my earlier comments?

Ms S.M. McHALE: This is a similar argument to the one I just put. This provision is very much an administrative process and provides for the publishing of a code of practice for contact and mediation licensees. I see no point in a minister of the Crown providing for the publishing of a code of practice. That responsibility relies on the professional expertise of the department. It is an administrative matter and does not require, in essence, a government policy direction or ministerial direction.

Clause put and passed.

Clauses 63 to 70 put and passed.

Clause 71: Section 127 amended -

Mr R.F. JOHNSON: This clause seeks to amend section 127 of the Act and deals with confidentiality. Why is paragraph (ba) to be inserted? It states -

> an Aboriginal or Torres Strait Islander agency, approved by the Director-General for the purposes of section 16A(2);

Ms S.M. McHALE: I am happy to explain that. In an earlier amendment we said that the director general was to consult with Aboriginal and Torres Strait Islander agencies, and these consultations must be covered by confidentiality agreements and clauses. This clause makes provision for confidentiality agreements to apply to any person or agency, in this case an Aboriginal and Torres Strait Islander agency, that may be involved in the handling of information or making of records. The aim of the clause is to ensure that an Aboriginal agency that may be consulted on the placement of an Aboriginal child is subject to the same confidentiality requirements as the minister, the department, a private adoption agency or a contact and mediation licensee, as currently detailed in the Act. We must ensure that an Aboriginal agency that may be consulted is also subject to the confidentiality requirements.

Mr R.F. JOHNSON: Is the minister saying that Aboriginal and Torres Strait Islander agencies are not listed in the Act as groups that would be consulted?

Ms S.M. McHale: They are.

Mr R.F. JOHNSON: I thought they were.

Ms S.M. McHale: As a result of this Bill.

Mr R.F. JOHNSON: Exactly; they are not in the present Act. Have they been included in this Bill because of the Aboriginal child placement principle that the Government is putting in place? Is that the only reason this amendment to the existing legislation is being made?

Ms S.M. McHale: It is not specifically because of the Aboriginal child placement principle. It was said earlier that the director general would consult with an Aboriginal agency approved by the director general on the prospective adoption of an Aboriginal or Torres Strait Islander child. Given that Aboriginal agencies will be consulted, they need to be subject to confidentiality restrictions.

Mr R.F. JOHNSON: If a relinquishing mother of Aboriginal descent expressed the wish that her child be adopted by non-Aboriginal prospective adoptive parents, must the director general still liaise with or talk to an Aboriginal and Torres Strait Islander agency about that child?

Ms S.M. McHale: On the face of it, an Aboriginal organisation would be consulted if there were the prospect of a child of Aboriginal descent being adopted.

Mr R.F. JOHNSON: Even if a relinquishing mother of Aboriginal or part Aboriginal descent did not wish an Aboriginal and Torres Strait Islander agency to be consulted or involved in any way? Is the minister saying that this legislation would go against the relinquishing mother's wishes by insisting that an Aboriginal and Torres Strait Islander agency be informed about a prospective adoption and negotiated with in that situation? If the minister is saying that, I am afraid that I must disagree with this clause, because it goes against the basic human rights of the relinquishing mother.

Ms S.M. McHALE: I would counsel the member for Hillarys against voting against this clause, because, notwithstanding his disagreement about consultation with Aboriginal organisations or issues with the Aboriginal child placement principle, this amendment is imperative because Aboriginal agencies are part of the process. If they were not subject to confidentiality, the consequences are obvious. They must be subject to the confidentiality provisions. If they breach confidentiality, they should be subject to the $10 000 penalty or 12 months imprisonment. The member may not like the Aboriginal child placement principle, but I counsel him to support this clause, because these agencies may well have access to information. They need to be explicitly covered by the confidentiality provisions of the legislation. Regardless of the member's opposition to the Aboriginal child placement principle, which we have canvassed, I urge him to support this clause, because those agencies need to be covered by the confidentiality clause.

Mr R.F. JOHNSON: I consider myself counselled by the minister on this issue. I accept what the minister has said. Obviously, if these agencies are to be part of the loop in any way, they must be enshrined in the confidentiality provisions. We are talking about the Aboriginal child placement principle. It is relevant to this clause because we are talking about Aboriginal children. Obviously an Aboriginal and Torres Strait Islander agency will not be consulted if a non-indigenous child is being adopted and a non-indigenous relinquishing mother and father are involved. I would like the minister to confirm whether an Aboriginal and Torres Strait Islander agency would still be consulted if a relinquishing mother of Aboriginal or part Aboriginal descent explicitly expressed the wish that her child be adopted by a non-indigenous couple. Would the wishes of the relinquishing parent or parents be adhered to in that situation?

Ms S.M. McHALE: This is a delicate balance between the wishes of the mother and the recognition of past difficulties with Aboriginal adoption. The advice I have received from the legal side of the department is that the Aboriginal organisation would be consulted.

Mr R.F. Johnson: Even against the express wishes of the relinquishing mother?

Ms S.M. McHALE: I am not sure whether section 45 of the Act is the section that I am looking for.

Mr R.F. Johnson interjected.

Ms S.M. McHALE: I am looking for the section in the Act that provides for relinquishing parents to say that they do not want anybody to know about the adoption. Does the Act not have such a clause? Does the member for Hillarys have anything else to say while I try to find the section I am looking for?

Mr R.F. JOHNSON: I am on my feet to give the minister the opportunity to look closely at the Act to find where, in some way, it might say something along the lines that the department will have the authority to talk to anybody, any specific organisation, or any specific relative, even against the explicit wishes of the relinquishing mother. The minister has indicated that it is probably in there somewhere. I have not found it in the Act, which is why I have a concern about putting something in the Act that will do just that. It is incumbent on this Government to respect the human rights of each individual in Western Australia. In this case I am talking about the relinquishing mother, who has an explicit right to tell the department that she does not wish it to inform anybody, other than by giving her a list of resumes of prospective adoptive parents so that she may choose somebody to adopt her child, which she does not wish or is unable to keep, for whatever reason. In that instance she has an absolute right to make that decision. It would be a disastrous day if a government department, or the director general of a government department is able, under legislation, to completely ignore the explicit wish of a relinquishing mother in the situation that I have outlined, and talk to an agency or other people in the family. I thought we had moved away from that. I thought the minister had agreed that the mother's rights would be paramount.

Ms S.M. McHale: They are.

Mr R.F. JOHNSON: I am just giving the minister time to find the bits and pieces. She need not argue with me now; she can do that when she has the call. I am just helping her out. When she is ready to answer me, I will wind up my little speech and sit down.

I conclude by saying that I hope the minister has found something in the Act which dispels my fear about the director general being able to talk to anybody other than prospective adopting parents about adopting a child. In this instance, I am talking about a child of Aboriginal descent and a relinquishing mother of Aboriginal descent. However, that may not be the case. It could be a European Australian mother and a father of Aboriginal descent. I want to know for certain from the minister that, if the relinquishing mother says she does not want anybody informed about an adoption, including an Aboriginal and Torres Strait Islander agency, because she wants her child adopted by specific individuals in society, whoever they may be, the Parliament will ensure that the mother's wishes are adhered to. I have given the minister enough time to get the information needed to answer my queries.

Ms S.M. McHALE: I appreciate the member for Hillarys giving me an opportunity to find the relevant sections of the Act. The member might be recalling one of the amendments, which overrode the birth mother's wishes to not have anybody informed. He will recall that I withdrew that amendment because I thought it was not appropriate.

Mr R.F. Johnson: When did you withdraw it? Is it not in the Bill?

Ms S.M. McHALE: No, we have removed it, so it is not there.

The member should look at section 45 of the Act, which is about prospective adoptive parents. It directs the director general to give the birth mother the opportunity to express her wishes about the child's upbringing and the preferred attributes of the adoptive family. The director general is to provide to that person information on the selection of prospective adoptive parents. In short, that is about giving the birth mother the right to select the characteristics she wants the adoptive parents to have. Section 127 of the Act is about confidentiality, and reads in part -

(1) A person must not directly or indirectly -

(a) make a record of;

(b) make use of; or

(c) disclose or communicate to another person,

information to which this section applies.

Penalty: $10 000 and 12 months' imprisonment.

(2) This section applies to information contained in any document of or in the possession or under the control of -

(a) the Minister;

(b) the Department;

(c) a private adoption agency; or

(d) a contact and mediation agency,

relating to an adoption or proposed adoption . . .

We are amending that section to include the Aboriginal or Torres Strait Islander agency, which I think the member understands. The question is whether there is a provision in the Act that prohibits the director general from talking to a third party. That is the confidentiality clause. There is no other provision in the Act that says the mother can prohibit the department from talking to anybody else.

Mr R.F. Johnson: So this section of the Act, even with the inclusion proposed by clause 71 of the Bill, will still preclude the director general from discussing the adoption of a child of Aboriginal descent with any other department without the consent of the mother?

Ms S.M. McHALE: No, it will not, because the provision we have inserted is that the director general is to consult in the case of the prospective placement of an Aboriginal child.

Mr R.F. Johnson: Surely that would only be if the mother wishes it. I want this on the record, because the Government will have its way. Is the minister telling me that even if a relinquishing mother of Aboriginal descent or a mother not of Aboriginal descent who bears a child by a father of Aboriginal descent says that she would prefer that nobody knows about the adoption and she does not wish the Aboriginal and Torres Strait Islander agency or any of her relatives to know about the adoption, the director general can still talk to the Aboriginal and Torres Strait Islander agency?

Ms S.M. McHALE: In theory, under the Act, yes, but I would say as minister that commonsense would prevail and that -

Mr R.F. Johnson: This is a very important issue, and I would really like the minister to finish off what she is saying.

Ms S.M. McHALE: The Act will be constructed in this way. A provision will state that the director general is to consult with an Aboriginal and Torres Strait Islander organisation.

Mr R.F. Johnson: Even against the wishes of the relinquishing parents?

Ms S.M. McHALE: There is no provision for the relinquishing parent to say that the director general may not talk to the agency. The relinquishing parent has the right to specify a non-Aboriginal couple, an Aboriginal couple, a couple under 30 years of age of Asian descent, a gay couple, or whatever. The rights of the relinquishing mother are to determine the characteristics of the adoptive parents, and I am very firm on that.

The director general is to consult. I cannot say to the member that if the mother says she wants a non-Aboriginal couple to adopt her child, the director general will not consult. The provisions of the Aboriginal placement principle and the amendments that we have passed mean that the director general must consult. However, they also mean that the director general will not take the advice of that organisation when it is very clear that the relinquishing mother does not wish her child to be adopted by an Aboriginal family. There will be some preliminary consultation, and that advice will be received by the director general. However, if the relinquishing mother says that she does not want her child to be adopted by an Aboriginal family, the function that the Aboriginal placement agency must perform will not be relevant.

Mr R.F. Johnson: Will the Aboriginal or Torres Strait Islander agency have the right to talk to the relinquishing mother and try to persuade her -

Ms S.M. McHALE: Absolutely not. I make it very clear that this principle is not about persuading the birth mother do one thing or another; it is about the adoptive placement options. I am very happy to put that on record. In fact, the adoptive agency would not even have the birth mother's name. The authority would indicate that an Aboriginal child was to be placed, and the Aboriginal agency working with children would be consulted. I repeat that if the birth mother clearly said she wanted her child to be placed with a non-Aboriginal family, the consultation with the Aboriginal agency would be very preliminary.

Mr R.F. Johnson: Would her wishes be paramount?

Ms S.M. McHALE: Yes.

Mr R.F. Johnson: Do you give an absolute guarantee?

Ms S.M. McHALE: Yes. I cannot think of anything more insidious than a system that would force a mother to do something other than what she wants. That is the basis of years and decades of policies and practices in relation to Aboriginal children, and that is what we are trying move away from. I make it very clear that we are not -

Mr R.F. Johnson: I agree but -

Ms S.M. McHALE: I am on my feet, so let me say this: I feel very strongly that if there is a requirement to find out the wishes of the relinquishing mother, and those wishes are made clear, they must be followed. There was one Aboriginal adoption this year, and the child went to an Aboriginal family. The circumstances we are discussing are quite rare; nevertheless, they may arise.

Mr R.F. JOHNSON: The minister tells us that adoption is not part of the Aboriginal culture; yet, she also tells us that there has been one Aboriginal adoption.

Ms S.M. McHale: I am just telling you the facts.

Mr R.F. JOHNSON: I am not criticising the minister. I am commenting that she makes so much of this -

Ms S.M. McHale: I do not make anything of it. The Aboriginal organisations make the statement.

Mr R.F. JOHNSON: The minister is responsible. She passes that statement onto this place. That is why she has included the Aboriginal placement principle in this Bill.

Ms S.M. McHale: I am happy to do so.

Mr R.F. JOHNSON: I am very unhappy that she is doing so. The Opposition will vote against that portion of the Bill. The reasons for that were outlined in my earlier comments. I might have raised the ire of the member for Kimberley, but that is her problem, not mine. What I say is always said with the best interests of the children in mind. The minister said that it will not happen; that the wishes of the mother will be paramount.

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: She is saying that. However, she is the minister and we rely on bureaucrats all the time. With all due respect to bureaucrats, they are the ones who came up with the original clause that would have given the director general absolute authority to go over and above the relinquishing mother's head and talk to the parents, family and extended family of the relinquishing mother, people within the particular Aboriginal community and, as a last resort, people in other Aboriginal communities. That was originally in this Bill. It was contrary to the basic human rights of a relinquishing mother. It is only because we brought it to the minister's attention and expressed our total opposition to it that the minister decided not to include it in the later draft. My concern is that it will always be bureaucrats who will administer this and all legislation. I want to be absolutely sure that the minister, who is ultimately responsible for this Bill, gets it right. It will be no good if perhaps a year down the track she blames some of the bureaucrats for getting something wrong; or in two and a half years she says, from the opposition benches, that she blames the bureaucrats for getting it wrong when she was the minister and that that is why she is now on the other side of the House. We must not let the bureaucrats get in the way of putting before this House good legislation that is in the best interests of the child and upholds the basic human rights of a relinquishing mother to say who should adopt the child she is giving up for adoption. We should put a stop to any thought of allowing the director general to go over and above the relinquishing mother's head and talk to other people about what is the relinquishing mother's private business and decision about what she thinks will be in the best interests of her child. I am glad that the minister has taken our other concern on board.

We will not vote against this clause, because if an Aboriginal or Torres Strait Islander agency is to be involved, it must be bound by the confidentiality provisions. We will have a bit more to say when we get to the clause dealing with the Aboriginal placement principle. We will then express our massive difference of opinion about what is in the best interests of the child.

[Quorum formed.]

Clause put and passed.

Clauses 72 to 75 put and passed.

Clause 76: Section 134 amended -

Dr E. CONSTABLE: Clause 76 refers to representation for children. As far as I can see, three parts of this are important. Firstly, it allows the director general the discretion to appoint a person to be a child's representative at any stage during the adoption process. That is straightforward. Secondly, it requires the director general to appoint a representative for a child if that child has a disability. If a child has a disability that may affect placement, he or she must have a representative during the process. Thirdly, and interestingly, it requires the director general to appoint a representative in cases where a birth parent is a child and who is considering the adoption of her child. That is a very good example of when a birth parent should have representation. The clause raises a number of questions about which I would like information from the minister. The first and obvious question is, what kinds of people would be considered "suitably qualified" - which is the term used in

the clause - to represent a child's interests? What sorts of qualifications would be suitable? I note that in some cases a lawyer would be instructed to act on behalf of a child. That is my first area of interest and concern. Secondly, why is the director general to appoint a representative? I would have thought it would be more appropriate for the court to appoint a representative for a child. Who bears the cost? I assume it is the Department for Community Development. Those are the issues this clause raises for me. I look forward to hearing the minister's explanation.

Ms S.M. McHALE: The sorts of people currently appointed as representatives of children include psychologists and social workers. They are independent; they are not employed by the department.

Dr E. Constable: Are such people involved with the Adoption Research and Counselling Service or Adoption Jigsaw WA, or are they independent of those organisations as well?

Ms S.M. McHALE: They have not been involved in the past. They have always been independent of all interested parties.

The member's other question was about the director general. It has been a long-term practice that the director general appoints the representative of a child. That has been in the legislation for a long time. I surmise the reason for that is that the director general is ultimately responsible for the overall process.

Dr E. Constable: If I could just interrupt for a moment; does the director general make the appointment or does he delegate that to someone else to decide?

Ms S.M. McHALE: It is delegated to the team leader or to Mr Keogh to make the appointment. The cost is borne by the Department for Community Development.

Clause put and passed.

Clauses 77 and 78 put and passed.

Clause 79: Section 138D amended -

Mr R.F. JOHNSON: Section 138D(b) is to be amended. Will the minister give a brief explanation of what is involved?

Ms S.M. McHale: It is concerned with adoption committees. It deletes "an" and inserts "the". There is to be only one adoption committee.

Mr R.F. JOHNSON: It deletes "an", which is in relation to "an adoption application committee", so it will read "the adoption application committee".

Ms S.M. McHale: Yes.

Mr R.F. JOHNSON: That is fine.

Clause put and passed.

Clause 80 put and passed.

Clause 81: Section 146 repealed -

Ms S.M. McHALE: I move -

Page 37, line 24 - To delete the full stop and substitute the following -

and the following section is inserted instead –

"

146. Review

(1) The Minister is to carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 3 years from the commencement day, and in the course of that review the Minister is to consider and have regard to -

(a) the implementation and administration of the Act;

(b) the extent to which members of the public are aware of the effects of the Act;

(c) the effect of the Act on birth parents, adoptees and prospective adoptive parents and the relatives of parties to adoptions; and

(d) such other matters as appear to the Minister to be relevant to the operation and effectiveness of this Act.

(2) The Minister is to prepare a report based on the review under subsection (1).

(3) The Minister is to cause the report to be laid before each House of Parliament not later than 12 months after the expiration of 3 years from the commencement day.

(4) In this section -

"commencement day" means the day fixed under section 2(1) of the *Adoption Amendment Act (No. 2) 2002*.

".

Clause 81 repeals the section of the Act that requires a review of the Act, albeit that we are only now giving effect to the provision put in place in 1997. My thinking was that, given we are five years on from the review and a range of issues has been raised, it would be important to conduct a further review of the Adoption Act three years after the commencement of this legislation. It would allow the opportunity for people involved in the adoption process to contribute to the shaping of the legislation. It was a genuine attempt to recognise the diversity of views, particularly about age, and to allow for the implementation of contact and information vetos and other administrative provisions in the legislation. I believe this is something that needs to be reviewed at reasonable intervals. It was my suggestion to take account of some of the conflicting views. In three years, it will be 10 years since we had a full review of the legislation. I am putting this on the table as a sensible way of dealing with such issues as the changing nature of adoptions in the twenty-first century. It seeks to manage, in a systematic way, what I recognise as some of the different and conflicting views surrounding adoption.

Dr E. CONSTABLE: I support this amendment, and the minister should be commended for it. A further review after 10 years is an excellent idea. May I be bold enough to suggest that, over the next three years, we should think about the sort of information that should be systematically collected and kept for the review. I am sure a lot of this happens routinely, but it might be a good idea to think about this now so that there is ongoing information and research. By the time of the review, some really good data will have been collected. The review will be better for having collected that information. I would hope that, in the review in 2005, any arbitrary age restrictions in the legislation may be dispensed with.

Mr R.F. JOHNSON: I concur with my colleague, the member for Churchlands. It is a very good idea to have a review in three years. This Bill is by no means perfect. It is an improvement in some ways because it will increase the age gap from what was a prohibitive age gap in the past. Has the minister found out when the 35-year age gap was introduced?

Ms S.M. McHale: No, I have not. My research of *Hansard* indicates that it goes back a few decades.

Mr R.F. JOHNSON: I thought it did. The previous Government said that there should be a review. That was a very good decision on its behalf.

Ms S.M. McHale: It is a pity you did not implement it.

Mr R.F. JOHNSON: We were going to but we had a hiccup in February 2001. It was a little hiccup that will face this Government in February 2005 or perhaps a few months before that if the Government feels lucky and considers it the best time to go to the polls.

However, getting back to the point, it is essential to conduct a review of legislation of this type every few years. Times are changing. People's attitudes and circumstances change. It is imperative that we keep abreast of the situation. I would love this legislation to be reviewed in three years. I can think of some areas of the Bill that I will certainly want to review and alter when I am in government in two or three years. This Government has gone way beyond what is reasonable with regard to the adoption of children. It has gone way beyond what is in the best interests of the child. It has put tiny minority groups in a position of enormous power to do all sorts of things. I have canvassed many areas of this Bill whereby that is the case. I do not know whether I will be the minister for this portfolio or whether I will be given a different ministerial position when we are again in government in two years. If I am minister for this portfolio in two years time, I assure the House that I will review this legislation. I will make it a matter of urgency. I might have it done and dusted by three years so that we do not have to wait for three years before a review is conducted, which would take 12 months, and then wait

for another 12 months or two years before the matter is referred back to Parliament. Some aspects of this Bill cause me enormous concern. No matter what some members might say, my prime consideration throughout my life has been the best interests of the children. That has been my prime consideration not only in debate on this Bill, but also with regard to the child abuse that is going on unabated in many areas in this State because the Government is not providing the necessary resources. I have wandered slightly.

Mr A.D. McRae: How is it different from when you were in government?

Mr R.F. JOHNSON: This Government has cut funding. Government members need only listen to their union mates who work in child protection. The minister is not listening to them, and they have a lot to say at the moment. It is funny how they always come to the Opposition - whoever they might be. The unions talked to the former Opposition for eight years and now they are all coming back to us. I have never seen so much industrial strife as I have seen under Labor Governments. We had eight years of good development and good business practices. What is happening now under a Labor Government in this State and under Tony Blair's Labour Government?

Point of Order

Mr A.D. McRAE: The member knows that he is not being relevant to the question at hand, and nor is he accurately presenting to this Parliament the disastrous labour relations history of the previous Government. I urge the Deputy Speaker to ask him to get back to the issue.

The DEPUTY SPEAKER: The member has 38 seconds to continue speaking on clause 81.

Debate Resumed

Mr R.F. JOHNSON: I defer to the Deputy Speaker's ruling. I am more than happy to refer to the Bill, I just became sidetracked for a moment. I now have only 27 seconds left.

Mr A.D. McRae interjected.

Mr R.F. JOHNSON: This is the trouble. When I get incessant, inane interjections, it takes my mind away from what I am trying to say. I am trying to be concise and logical, but I am running out of time because of inane interjections from members opposite. I very much welcome a review of this legislation in three years time.

Ms S.M. McHALE: I will respond to the member for Churchlands. Data collection is imperative in this area. Better research would be useful, subject to the available resources. I will be happy to undertake this review. Ten years will be long enough for another review to take place.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 82: Schedule 1 amended -

Dr E. CONSTABLE: This clause contains a very important aspect of the Bill; it provides for people to be given information and counselling before they consent to adopt their baby or child. The clause notes to this Bill state -

> In some circumstances this information is being provided by people who may not have adequate information on the psychosocial implications. For example, in step parent adoptions solicitors provide the information and some may not have a comprehensive understanding of adoption issues.

Under clause 82, only the director general will be able to provide the information required in schedule 1. Either oral or written information will be given to people who will give or are considering giving consent to adopt their child. I would like more information about who will conduct the counselling. What type of information will be provided? How many sessions of counselling would be required? Where will the counsellors come from? Will people from organisations who are currently providing services to the department, for example, the Adoption Research and Counselling Service and Jigsaw (Adoption) WA and other adoption organisations be eligible to become counsellors? If so, I would like some justification of that. I am not sure that those people will necessarily be the best people to provide that service. I would prefer independent people to provide advice. Will an organisation that receives funding from the Department for Community Development via a contract for some purpose be considered to have independent counsellors, bearing in mind that relationship with the department? I also understand that people will be offered counselling but they can choose not to accept it. However, they must be given written or oral information.

There are two aspects to this clause. Firstly, the relinquishing parents are to be given information and, secondly, they will be offered counselling if they wish. I would like the minister to clarify whether that understanding is

correct. Who is suitably qualified to provide that counselling? Would people who already have a relationship with the department be considered independent counsellors?

Mr R.F. JOHNSON: I will give the minister an opportunity to collect her thoughts. I will continue from where my colleague, the member for Churchlands left off. I am concerned about the definition in this Bill of "independent counsellors". Will the minister explain who the independent counsellors will be? As the member for Churchlands indicated, if the counselling were provided by someone from an organisation deemed to be anti or pro adoption, it would not be appropriate. It requires someone truly independent from adoption in any way. Someone is needed with a psychology background who can simply evaluate the pros and cons for the person involved, and not be biased in any form. My concern is that if a person intrinsically involved in adoption, either pro or anti adoption, provided the counselling, it would not provide a good service for the relinquishing mother or parent. I would like it to be someone who is not a government employee. Government employees often can be swayed by the Government of the day - it is a fact of life. Perhaps someone from a university or in private practice could contract services to the department for this purpose.

Ms S.M. McHALE: On a number of occasions solicitors have provided the information, particularly in the case of step-parent adoptions, and some of them have not had a comprehensive understanding of adoption issues; hence, the legislation review committee recommendation - the one supported by the member for Kingsley - that schedule 1 information be provided by the director general. The amendment is based on concern about the quality of information given.

The counselling is provided by either departmental officers - usually social workers in the metropolitan area or country - or by the Adoption Research and Counselling Service, which has a service agreement with the department. I have seen no evidence that that is detrimental to the parties involved in the adoption. The counselling has been seen to be adequate. I certainly have not received any ministerial complaints about the quality of the counselling. It is provided by departmental officers or, in certain instances, through ARCS counsellors.

Clause put and passed.

Clause 83: Schedule 2A replaced -

Mr R.F. JOHNSON: I reiterate my point as this is the main part of the Bill about which I must express concern about enshrining in law the Aboriginal and Torres Strait Islander placement principle. The principle has not worked. Submissions were made to the Gordon inquiry by Aboriginal groups that the principle has not worked and has left children at risk and in possible danger. They are not my words, but those of Aboriginal groups making submissions to the Gordon inquiry. The Aboriginal child placement principle is not working in certain areas. It did not work for children placed with extended family members within Aboriginal communities. That is certainly the case in the Swan Valley area, where horrific problems arose in relation to some young children. Why on earth would we want to enshrine in law a principle that even Aboriginal groups have said puts children's lives at risk?

Mrs C.A. Martin: Some Aboriginal groups.

Mr R.F. JOHNSON: If the member for Kimberley wants to get up and make a contribution, I would love to hear her speak.

Mrs C.A. Martin: Why don't you just start telling the truth?

Mr R.F. JOHNSON: The member should tell the truth. Why not stand up and tell the truth?

Mrs C.A. Martin: Not all Aboriginal groups.

Mr R.F. JOHNSON: All I get from the member -

Mrs C.A. Martin: Don't generalise - that's your problem.

Withdrawal of Remark

Mr R.F. JOHNSON: Madam Chair, I draw your attention to standing orders and the conduct of members. The member for Kimberley just said that I was lying - that I was telling lies. I ask that she withdraw that comment.

The DEPUTY SPEAKER: I am sorry; I did not hear the comment. I am sure that if the member for Kimberley made that direct reference, she will withdraw. I will ask her to withdraw, but I did not hear the comment.

Mrs C.A. Martin: What was the comment?

The DEPUTY SPEAKER: The member for Hillarys referred to the member for Kimberley's comment about lying, and asked her to withdraw if she made a direct accusation. If she did, under the standing orders I ask her to withdraw but I did not hear the comment.

Mrs C.A. MARTIN: I did not use that word at all. I said he was misleading the House. I do not think that is a lie. I thought the member was making extraordinary generalisations. That was my point.

Mr R.F. JOHNSON: That shows the honesty in this House at the moment. The member for Kimberley said I was telling lies, and she has not the decency to admit it and withdraw. It is on audio, my friend! I will check it. We will see who is misleading the House!

Several members interjected.

The DEPUTY SPEAKER: Order, members!

Mr A.D. McRAE: The debate was continuing, but the member for Hillarys, because of his total lack of substance, decided he would continue his accusation. In asking people to be honest, he is making the same accusation. I ask him to withdraw those accusations that people are misleading the House. That is very wrong of him - he knows it.

Mr R.F. Johnson: We have on audio what the member for Kimberley said, my friend.

The DEPUTY SPEAKER: There is no point of order, member for Hillarys.

Debate Resumed

The DEPUTY SPEAKER: We are dealing with the clause 83.

Several members interjected.

The DEPUTY SPEAKER: Order, members! It is unparliamentary to interject across the Chamber: The member for Hillarys has the call.

Mr R.F. JOHNSON: We are talking about -

Mr M.P. Murray interjected.

Mr R.F. JOHNSON: Here we go again! The only time the member for Collie says anything is by way of interjection. Why does he not stand up and say something about the Adoption Amendment Bill (No. 2) 2002 instead of sitting there and saying blah blah blah and shouting across the Chamber. That is all the member can do. He should be sent out of the Chamber because of his interjections.

Mr M.P. Murray interjected.

The DEPUTY SPEAKER: Order, members!

Mr R.F. JOHNSON: Obviously, the government members' tactic is to try to waste my time so that I cannot say the words I want to say. However, they will not get their way because I will finish what I want to say. If my time runs out, one of my colleagues will get up and make a comment so that I can stand again. The longer members opposite interject, the longer the debate will take. I intend to deal with this very serious issue.

Mr M.P. Murray interjected.

The DEPUTY SPEAKER: Member for Collie!

Mr A.D. McRAE: I would like to hear more from the member for Hillarys because the next intelligent remark he makes will be his first.

Mr R.F. JOHNSON: As I was saying before I was so rudely interrupted, the Aboriginal child placement principle that the Government wants to enshrine in law was the subject of submissions presented to the Gordon inquiry by Aboriginal groups who stated that the principle was not working and that Aboriginal children's lives were being put at risk. That is not what I say as a non-indigenous person; that was stated by Aboriginal groups in their submissions to the Gordon inquiry -

Mrs C.A. Martin: Some Aboriginal groups.

Mr R.F. JOHNSON: Some Aboriginal groups. Of course, not every Aboriginal group has stated that but enough have. Obviously the groups that feel a duty of care for children have stated that otherwise they would not have made such assertions and nor would they have made such submissions to the Gordon inquiry.

Mr A.D. McRae: So all Aboriginal groups made that submission to the inquiry?

Mr R.F. JOHNSON: I will not answer that interjection because it was stupid.

Madam Deputy Speaker, I said some Aboriginal groups.

Mrs C.A. Martin: That is not what you said.

Mr R.F. JOHNSON: That is what I said. The member for Kimberley should read the Gordon inquiry report and, even though she does not want to read it, it is clearly stated that some Aboriginal groups made submissions to the Gordon inquiry - I cannot remember them word for word - to the effect that the Aboriginal child placement principle was not working, and, in some areas, it was putting young Aboriginal children's lives at risk. That report was printed and tabled in the House. We are talking about the Aboriginal child placement principle, which the minister and her Government want to enshrine in law. They want to put children's lives at risk by making the Aboriginal and Torres Strait Islander child placement principle absolutely legal and the only measure that can be taken. The principle will become enshrined in legislation. The Government will get its way because it has the numbers to ram through whatever legislation it wants. The Government will get its way, but the Opposition will have its say. It is absolutely wrong to enshrine that principle in law, because, as the minister has told the House, the main theme of the legislation is the best interests of the child.

Ms S.M. McHale interjected.

Mr R.F. JOHNSON: Wisdom! Here is a Government that wants to give homosexuals the right to adopt and that wants to enshrine in law the Aboriginal child placement principle, which is an absolute danger to children. How well has the Aboriginal child placement principle worked for the nine, 10 and 11-year-old Aboriginal children who are allowed by their parents, extended family and people in the community to wander the streets of Northbridge? How well is the Aboriginal child placement principle working in that regard? It is not working. Those kids are in danger and yet the Government wants to enshrine the principle in law. The Government will be damned for what it is doing today, because it will put young Aboriginal children at risk.

Mrs C.A. Martin interjected.

The DEPUTY SPEAKER: Order, members!

Mr R.F. JOHNSON: I wish the member for Kimberley would get to her feet and make a coherent contribution to the debate. What an important clause for the member for Kimberley to talk about.

Mr A.D. McRae: They are the comments of a racist.

Mr R.F. JOHNSON: They are the comments of a racist! I have heard all that rubbish. Let me tell the member for Riverton that he can call me a racist as much as he likes, but all I care about is the children. I do not care about the colour of a person's skin and nor do I care about their cultural background. I care about children first and foremost -

Mr M.P. Murray: As long as they have an accent like yours.

Mr R.F. JOHNSON: I would not want them to have an accent like the member for Collie.

Mr A.D. McRae: Those are also the comments of a racist.

Mr R.F. JOHNSON: Are they? What did the member's friend just say? He is not racist is he? I am not stupid.

The DEPUTY SPEAKER: Members, the number of interjections across the Chamber is totally unacceptable. I ask that courtesy be shown to the member who has the call, to the Hansard reporter and to the member in the Chair.

Mr R.F. JOHNSON: Thank you, Madam Deputy Speaker.

As I said, the principle is not working for the young Aboriginal children whose parents, extended family and community members allow them to wander the streets of Northbridge at two o'clock in the morning. If the Aboriginal child placement principle were working successfully, they would not be allowed to wander the streets of Northbridge.

Mr A.D. McRAE: The member for Hillarys is propagating the belief that an Aboriginal youth of 14, 15 or 16 years who is allowed to walk the streets of Northbridge with his or her friends reflects upon the Aboriginal adoption principle. The extension of logic from that observation beggars absolute belief. The member for Hillarys is suggesting that the presence of Aboriginal people on the streets somehow constitutes a failure in and a threat to society. That view is abominable and racist in the extreme. It is abominable and racist because it suggests that the colour of a person's skin constitutes a threat. It is outrageous to suggest that the cultural background of a person constitutes a threat. It is obscene for the member for Hillarys to stand in the Chamber and present that view as an informed debate. The member for Hillarys is obscene and he should withdraw his

comments. His suggestion is outrageous. The connection he made to the policy in the Bill should not remain unanswered in the Chamber. Madam Deputy Speaker, I am outraged. If children are in need of protection, to the extent that it is possible they should be afforded that protection by the State and by this Chamber. Whether young people are black or white, and no matter what their cultural background, they should be able to go into the public domain in a social situation. To constitute that as a failure of public policy and a failure of adoption policy is obscene. I condemn the member for Hillarys for producing such a line of debate.

Mrs C.A. MARTIN: I wish to make a couple of points about this matter. Most importantly, I extend my deepest sympathy to the member for Hillarys because he does not understand what he has done. He does not understand the vilification that he has brought into this place. We set the standards for society and our behaviour is reflected in the community. The member for Hillarys' behaviour promotes the sort of rubbish about which he has spoken. The generalisations that the member makes about indigenous people on a day-to-day basis are offensive. An important point has been missed by the member for Hillarys with regard to this legislation - especially the Aboriginal child placement policy; that is, the issue has been consulted to death. A few people have made remarks that are different. However, the reality is that the issue has been discussed for years. Indeed, the Aboriginal child placement principle started more than 20 years ago. The member for Hillarys has said that a couple of people have said this. However, it comes down to the generalisations that he makes about our children. Are we to keep our children at home so they will not be seen on the street? This is intolerable behaviour and I will be making a complaint to the Speaker. I will not be vilified in this place by anybody. That is not why I am here. I am here to represent my electorate, 50 per cent of whom are Aboriginal. When the member offends me, he offends them. That is what this is about. He should stop generalising. He does not have that right. This is racial vilification, and if he does not understand that then he needs to learn quickly.

Dr E. CONSTABLE: This clause is clearly very sensitive and it would be worthwhile if the minister could take us through each part of it and explain in some detail its intention and implications.

Several members interjected.

Withdrawal of Remark

Mr P.D. OMODEI: The member for Riverton has just made an unparliamentary comment and I ask that you ask him to withdraw it. He said that I should "fuck off", which is not parliamentary, and he should withdraw that comment.

The DEPUTY SPEAKER: I certainly did not hear that language and I do not choose to hear interjections across the Chamber. However, if the member for Riverton so referred to another member in this House, then I ask him to withdraw that comment.

Several members interjected

The DEPUTY SPEAKER: Order, members!

Debate Resumed

Dr E. CONSTABLE: It is important that we put aside this emotion for a moment and address what this clause is about. It is important that it be fully explained by the minister so that it is on the record and so that members understand what is intended by the clause. I would like the minister to go through the five proposed paragraphs and explain to the House what is intended by these provisions. It may well be that some questions - I might have one or two - will arise from that explanation. However, it is important for this debate to go beyond this emotion and deal with what is before us. I imagine that very complicated situations may arise when placing any child. One question that comes to mind is what happens when a birth mother and father disagree over the placement of a child with a family in accordance with the Aboriginal and Torres Strait Islander placement principle: whose will will prevail? How is that problem sorted out when a difference of that type exists? That is the type of issue of which members must have some understanding. I look forward to a calm, clear and rational explanation.

Ms S.M. McHALE: Before I explain, I will respond to the member for Hillarys' reference to the Gordon inquiry. He has perpetrated this position in past debate and I have dealt with it. However, he is still peddling this view -

Mr R.F. Johnson: It's the truth.

Ms S.M. McHALE: It is not the truth. If the member reads the Gordon inquiry he will see that it makes reference to Aboriginal communities considering that placement principle was not appropriate in a particular context -

Mr R.F. Johnson: Does it say that?

Ms S.M. McHALE: Yes.

Mr R.F. Johnson: What were the words that were used?

Ms S.M. McHALE: The inquiry states -

> It is without doubt that the decision to apprehend a child is a difficult one, but the decision as to where to place a child is equally so, and often needs to be done quickly without all the information being available to the decision maker, at least in the short term.

I will say two things -

Mr R.F. Johnson: The minister should quote from page 152 of the report.

Ms S.M. McHALE: I am reading from page 152. I will make two points. First, the comments in the Gordon inquiry report about Aboriginal placement principle were not made in the context of adoption. Secondly, if the Gordon inquiry considered that the placement principle was not appropriate, I would have expected it to make recommendations about placements. It has made no recommendations as such. A link cannot be made between the Gordon inquiry and the view that the principle is not appropriate in the instance of adoption. I have said that before, but the member is still peddling the same argument. The member for Hillarys should take on board the context in which any reference was made to the Aboriginal placement principle, not the least of which is that the Gordon inquiry did not make any recommendation whatsoever about not following the placement principle.

Member for Churchlands, I would have thought the placement for adoption principle was quite self-explanatory. Again, two things must be said. The principle is to be considered in the context of adoption placement. Furthermore, the principle must also be considered in the context of and be relevant to section 45 of the Act. We had this argument earlier in the debate, but if it needs to be repeated then so be it. The issue is the consideration of the placement for adoption principle and the mother's wishes. The insertion of the placement for adoption principle has been a longstanding commitment of the Australian Labor Party and I am proud to be putting it into this legislation. This principle was in the legislation in 1992. In 1993-94 the Labor Party argued that the principle ought to be inserted into the legislation and the then Liberal Party Government refused to do so. That was its wont and position in government. However, our position is different. We firmly believe that the Aboriginal placement principle is worthy of being in this legislation. We stand by that position because of this State's history and the body of knowledge - I refer to wisdom - that has been built up over years from research and the "Bringing them home" report, which reviewed the adoption legislation in this State and others. Members must remember that the Adoption Legislation Review Committee also recommended the insertion of the Aboriginal placement principle into this legislation. This is not something new by any means.

I should not have to go through each clause sentence by sentence. However, broadly speaking, there is a hierarchy of matters to be considered when a child is being placed for adoption, as outlined in the principle. The child should be placed with a person from the child's own Aboriginal community. If that is not possible, then preference is given to placing the child within an Aboriginal or a Torres Strait Islander family. If that is not possible, then the child is placed with a person who is non-Aboriginal but is sensitive to the needs of the child. They are clear provisions.

Mr R.F. JOHNSON: I do not think the minister was being completely open when she quoted selectively from the Gordon inquiry report. I refer her to page 152 -

Ms S.M. McHale: That was what I was reading from.

Mr R.F. JOHNSON: However, the minister did not quote the section that expressed concern. I will quote from page 152 of the Gordon inquiry report. The second paragraph under "Aboriginal child placement principle" states -

> Aboriginal communities expressed concern to the Inquiry during consultations that the Aboriginal Child Placement Principles were not appropriate and cited examples where the application of the principles had allegedly resulted in children being placed in situations of risk.

To me, that is a clear indication that the Aboriginal community expressed those concerns to the Gordon inquiry. That inquiry was set up to investigate child abuse in Aboriginal communities. One incident in particular resulted in the tragic suicide of a young Aboriginal girl. That was the reason the Gordon inquiry was set up. Aboriginal communities told the Gordon inquiry about their genuine concerns and cited examples in which the application of that principle allegedly resulted in children being put at risk. I am not being racist when I say these things. I am expressing a concern for young Aboriginal children. This clause specifically talks about Aboriginal children. It does not matter to me what colour a child is or from what cultural background or country he comes. All I care about is children. I have been committed to the wellbeing of children for 20 or 30 years in not only this State but

also the United Kingdom. I have taken that commitment on board and have done a lot of work in that area, because I have a tremendous commitment to the wellbeing of children. I am still heavily involved as the chairman of the Australian board of Radio Lollipop, which cares for children in hospitals. That takes up my time but it is something to which I have a tremendous commitment. I am not paid to do that job; in fact, it costs me money, but I love doing it because I have a commitment to help children. In this case it involves sick children, some of whom are very sick. No-one in this House should tell me that I am being a racist or that I do not care about kids. I care about all kids, whether they are Aboriginal, non-Aboriginal, Asian or from whatever cultural background. I am concerned that the Government will enshrine in law a principle that is of tremendous concern to Aboriginal communities. They have already expressed that concern. Why is the Government not listening to them? It may not want to listen to me, but for goodness sake it should listen to them. If there is any danger that children will be placed at risk because of the Aboriginal child placement principle, why not delete it from the Bill until the Government can be absolutely sure that those children will not be put at risk? If the Government can convince me that those children will not be put at risk in any way because of this principle, I will vote for it. I agree that, if possible, Aboriginal children would probably be better off with Aboriginal foster or adoptive parents.

Mr A.D. McRae: Member for Hillarys -

Mr R.F. JOHNSON: I will not take an interjection from the member for Riverton; he used foul language in this Chamber. There are many instances in which a relinquishing mother would prefer a child of Aboriginal descent to be placed with a non-indigenous couple. If that is her wish, she obviously has a good reason for it, and we should adhere to that wish. We should not automatically enshrine this principle in law. We are told that it is not adoption, because adoption is not part of the Aboriginal culture; Aboriginal communities do have a form of adoption, but the word "adoption" is not used. The minister is happy for those kids to possibly be put at risk by being placed with other members of the Aboriginal community who do not specifically want to adopt a child in order to give that child the best possible chance in life.

Ms S.M. McHALE: I will make a couple more comments and will probably reaffirm what I said about page 152 of the Gordon inquiry report. Those remarks were made in the context of dealing with very troubled children who either had been in care or were at risk of going into care at short notice. We are talking about adoption.

Mr R.F. Johnson: These kids can be adopted at any age. We are not just talking about babies.

Ms S.M. McHALE: The member for Hillarys should let me finish. We are talking about the adoption process, which takes weeks. I have outlined in previous debates the process and time frames in which decisions are made. One could not, for one second, describe adoption as involving decisions that are made in a very short time frame. Members must understand that we should look at any concerns about the Aboriginal child placement principle - we will need to canvass this at some future stage with the new children's legislation - as they apply to emergency care and the care of very troubled children.

I put on record the support of the Ethnic Communities Council of Western Australia for Aboriginal and Torres Strait Islander children, because it commends the Government for including the Aboriginal placement principle in the legislation. I have already referred to the Western Australian Indigenous Child Care Agencies Council, and the Secretariat of the National Aboriginal and Islander Child Care. They are very significant bodies in Western Australia and Australia that manage and deal with children who are adopted or in care.

Mr P.D. Omodei: Would you describe the Ethnic Communities Council of Western Australia as apolitical?

Ms S.M. McHALE: Where did that come from? I am talking about the Aboriginal placement principle and the recognition of it by Aboriginal organisations and the Ethnic Communities Council.

Several members interjected.

The ACTING SPEAKER (Mr J.P.D. Edwards): Members, the minister has the floor!

Ms S.M. McHALE: There is no way that I will digress with interjections of that nature. It is important to put on record the support of the Western Australian State Government in enshrining the principle in the legislation. I have recognised that the Opposition has difficulties with this principle. We will just have to differ on that point.

Mr R.N. SWEETMAN: I will make a couple of comments on this clause. I could say a lot about this issue, but it would probably not relate to clause 83, which we are currently debating. I want to draw from the minister a more precise response on foster care. The minister and the member for Hillarys both quoted the Gordon inquiry report. Foster care is required on many occasions in my electorate. I do not know whether white foster carers are chosen as a last resort or whether they are simply more available and, most of the time, are perhaps more

reliable for the placement of kids. The minister and I know - certainly the feedback from her agency would indicate - that most of the kids who are -

Mr A.D. McRae: How do you know that?

Mr R.N. SWEETMAN: I will quote figures if the member for Riverton likes.

Ms S.M. McHale: You just said that white foster carers are more reliable than other foster carers.

Mr R.N. SWEETMAN: No, I said there are a variety of reasons that children are placed with foster carers.

Ms S.M. McHale: Hansard will have it on record.

Mr R.N. SWEETMAN: On occasion the department looks for foster carers. Quite often white foster carers are more likely to be available and reliable in that they are consistently available for the placement of kids.

Mr A.D. McRae: How would you know? You are an idiot.

Withdrawal of Remark

Mr P.D. OMODEI: The member for Riverton just referred to the member for Ningaloo as an idiot. I ask you, Mr Acting Speaker, to ask him to withdraw that comment. It was unparliamentary.

The ACTING SPEAKER: I heard that remark, member for Riverton. It has also been drawn to my attention. I ask the member for Riverton to withdraw it.

Mr A.D. McRAE: I withdraw it unreservedly.

Debate Resumed

Mr R.N. SWEETMAN: This is a fine ideal. I guess I live in the real world. I guess that some of the things I have seen in my time living in regional Western Australia, and certainly even more so in the time that I have been a member of Parliament representing the area that I do, could probably be described as being part of a surreal world. There is a yawning gulf between living in my area and coming to Perth to participate in a Parliament such as this. We can talk about what is, really, rabid idealism. The member for Hillarys is talking about introducing a bit of pragmatism into the Bill. If these outcomes can be easily achieved, that is fine. However, what the member for Hillarys is trying to suggest is that, in reality, there will be needs and requirements that relate to the best interests of the child and which will mean that these kids should be placed in other situations. Over time, that will become more difficult. I know a few foster carers in my area. Some of them are sick of having kids placed with them for a day or two, a week or a month, then being placed back into the situation from which they came, only to come back to the foster carer in a week or two trashed, miserable and wretched. They bring the child back again. The carers can only take for so long the mental anguish and trauma of nurturing that child out of the predicament it was in when it was first placed with foster parents, only to see that child thrown to the wolves. I have so much regard for the people in the Department for Community Development, and I have many friends in that agency, but one of the criticisms I have - and I speak openly of this criticism with the people in the department - is that they are too quick. They see it as a duty of care on behalf of the child to reunite a child in foster care, a refuge or a group home with a parent or guardian, be it grandmother, aunty or next of kin. As the member for Hillarys said, and as the Gordon inquiry has said, that is exposing the child to considerable risk. That is what is happening in the real world, and if the minister chooses to deny it, she is flying in the face of reality. I do not think that is the case only in regional Western Australia. I am sure there are situations in the metropolitan area as well where this is happening.

Several members interjected.

The ACTING SPEAKER (Mr J.P.D. Edwards): Thank you members. The member for Hillarys has the floor.

Mr R.F. JOHNSON: I have said most of the things that need to be said on this clause. While members opposite keep telling me to sit down or whatever, I will stay longer. As long as they want me to debate, they should just keep interjecting and being rude to me, and I will keep talking. We will go very late tonight. I will not tolerate their rudeness and foul language in this Chamber; nobody will.

I will conclude my remarks on this clause by reiterating my view and going over it once again with the minister. I was hoping that she might just listen to reason and decide to withdraw this clause until the Labor Party has the Aboriginal child placement principle right. It was introduced in 1986, I think.

Ms S.M. McHale: It was 1992.

Mr R.F. JOHNSON: I think it was introduced in 1986, originally, by Brian Burke, under his Government. I think the minister will find that was the case.

Ms S.M. McHale: The legislation is dated 1992.

Mr R.F. JOHNSON: It was dated 1992, but Labor brought it in as a principle in 1986. The minister was working in one of Brian Burke's departments at the time, I believe, and she may even have responded to Brian Burke on some issues.

Ms S.M. McHale: It was child abuse.

Mr R.F. JOHNSON: Yes, it was child abuse.

Point of Order

Ms M.M. QUIRK: I draw the attention of members to the standing orders, and the need to stick to matters of relevance. I believe the member is departing from the clause.

Mr P.D. Omodei: Where have you been?

Ms M.M. QUIRK: I have been here the whole time. I have not been propping up the bar.

Mr R.F. JOHNSON: Further to that point of order, what I have been saying is completely relevant to what is before this House at the moment. We are talking about the Aboriginal child placement principle, and I was explaining when it came in. It was brought in by a Labor Government.

Ms M.M. Quirk: You were talking about child abuse.

Mr R.F. JOHNSON: Do leave off! I mentioned two words! Why are members opposite so afraid to hear the truth? Why are they afraid to even talk about issues within the Aboriginal communities that are not working?

The ACTING SPEAKER: I have a point of order before me, and I will rule on it. There is no point of order. I am sure that what the member for Hillarys is saying will be relevant, and that he is reaching the relevant point of his argument.

Debate Resumed

Mr R.F. JOHNSON: We are talking about the Aboriginal child placement principle in this Bill, and I am saying it is wrong. It is divisive and separatist. Those are the two words that come to mind straightaway, because a separate law is being made for a separate group within our community. This provision is completely separate for a group within the Australian community. There is no Asian, non-indigenous, English - God forbid - or Spanish child placement principle. A special child placement principle is being enshrined in law for one group of people within our community that represents a very small percentage. Those children are just as important as every other child in this community, and they should be treated, protected, loved and cared for the same, but the minister is separating those children yet again, putting them to one side and saying that they are Aboriginal children, so they must have a special principle and policy. I would not mind if the principle worked and the kids were protected, but they are not. Their lives are being put at risk, as the Gordon inquiry submission -

Mr J.N. Hyde: That is wrong.

Mr R.F. JOHNSON: The member for Perth should read page 152.

Several members interjected.

The ACTING SPEAKER: Thank you, members. The member for Hillarys has the floor, and I am not taking any interjections.

Mr R.F. JOHNSON: I am concluding my remarks. I do not intend to speak much more on this, because we will go to a vote. The Government will vote on one side and the Opposition on the other.

Mr J.N. Hyde: We know that. You do not have to tell us.

Mr R.F. JOHNSON: Certain things must be explained to children and imbeciles, and that is what I am doing.

Mr J.N. Hyde interjected.

The ACTING SPEAKER: The member for Perth!

Mr R.F. JOHNSON: I have tried to speak very calmly, coolly and without too much emotion, just laying the facts in front of this Chamber about what is best for children. The principle is in no way in the interests of children. We are going against the theme of what is in the best interests of the children in this legislation. We are allowing all sorts of people to adopt children, and yet we will not allow Aboriginal children, except as an absolute last resort, to be adopted by non-indigenous families. If anything, that is counter-productive to the interests of children.

Mr C.J. BARNETT: I find it extraordinary that, in the twenty-first century, this Labor Government is bringing in a piece of legislation containing a clause that clearly discriminates between Aboriginal and non-Aboriginal

children who come up for adoption. It is ironic, because the Labor Government has preached to us and tried to preach to the community about all sorts of forms of equality in our society. We have had the gay and lesbian legislation, de factos being treated with the same status as married women, and whatever else. They preach and they preach to us, and now we find this Labor Government and this minister bringing in a piece of legislation that determines the care of a child according to the colour of that child's skin.

Mr J.N. Hyde: It is the best interests of the child.

Mr C.J. BARNETT: The member for Perth can get up and speak later.

The ACTING SPEAKER: Thank you, member for Perth. This is an emotional debate; I understand that. I am not prepared to take any interjections. If members wish to speak, they have the opportunity to do so. I will call to order those who interject. The Leader of the Opposition has the call.

Mr C.J. BARNETT: I have no doubt that the officers and agencies involved in adoption operate to the best of their abilities in trying to assess the state of the child and his experiences and the suitability of prospective adoptive parents. If the child is Aboriginal, one of the criteria they may well look at is whether that child would, for cultural reasons, be better placed with an Aboriginal family. It may depend on the age of the child and the experiences he has had. No-one would doubt that that is a valid issue. However, I find it appalling and abhorrent that a Government would in the twenty-first century want to enshrine in legislation that race will be a determinant of adoption. I find it absolutely abhorrent that in 2002 this Parliament is about to legislate for a race criterion. It is to the shame of this minister that she resorts to legislation that is clearly racially discriminating rather than ensures that her department has appropriate, acceptable criteria. The minister will be condemned for this. She may well say that it is Labor Party policy, but she will be recalled in this Parliament as the minister who introduced the racial clause in the adoption legislation.

Mr J.L. BRADSHAW: This piece of legislation is like all the other legislation we have debated in this place recently. It takes away people's freedom of choice. Under the Adoption Act, people have a choice about where their child goes. The Government is taking that choice away. It is discriminating against the person surrendering a child by removing her choice about where that child goes. I cannot believe that in this day and age this Government is taking away these freedoms, in the same way that it has taken from university students their freedom of choice about guild membership.

I believe this part of the legislation is a hangover from the bad old days when Aboriginal children were taken from their parents and put into institutions and those types of places. That certainly was not acceptable. The Government has a hang-up about that, and it is bringing in this legislation to try to overcome the bad old days and the wrongs of the past. This legislation is a disgrace. It is about time the Government had a good look at the Bill, got itself into order and got its head around the fact that it is taking away people's freedom.

Not all Aboriginal people are 100 per cent Aboriginal.

A member interjected.

Mr J.L. BRADSHAW: Sometimes they have white fathers or mothers. Some people are integrating and mixing.

Mr J.N. Hyde: Aboriginality is not about the colour of your skin.

The ACTING SPEAKER (Mr J.P.D. Edwards): Members!

Mr J.L. BRADSHAW: This Government is telling people who they should go with and how they should go with them. It is a disgrace. It is about time this minister woke up and put some sense back into the debate and the legislation and removed this discriminatory clause.

Mr R.N. SWEETMAN: Obviously the minister will not respond to some of the queries we have raised about this clause. Even though we are dealing with the adoption Bill, I want to know the implications of this particular clause on foster care as it is currently structured. Will policy in that area be to some extent dictated to because of the passage of this legislation? We will certainly not support this clause, but the Government will ensure that at the end of the day it is passed into law.

Ms S.M. McHALE: We have in previous debates canvassed the opinions that underpin the principle. It is pathetic for the member to say that the minister is not responding.

Mr J.L. Bradshaw interjected.

Ms S.M. McHALE: The member has joined this debate at the eleventh hour. If he cares to read *Hansard*, he will see the justification for the principle. He should not say that the minister is not defending her position.

Mr J.L. Bradshaw: You are taking away people's freedom.

Ms S.M. McHALE: I have explained it, but I will explain it again very clearly and simply. The wishes of the relinquishing mother are enshrined in section 45 of the Adoption Act. It is as simple as that. The Aboriginal placement principle is to be considered in the placement of a child. The two must be looked at together. I have said that on numerous occasions. If the member does not care to listen, that is his choice.

One-third of Aboriginal children are placed with non-Aboriginal foster carers. The Aboriginal placement principle operates as policy in relation to the placement of Aboriginal children. The reality is that -

Mr P.D. Omodei: Is that one-third?

Ms S.M. McHALE: I am informed that one-third of all Aboriginal children who are in care are placed with non-Aboriginal families. About 30 per cent of the children in care are Aboriginal children.

Clause put and a division taken with the following result -

Ayes (23)

Mr P.W. Andrews	Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr P.B. Watson
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	Mr M.P. Whitely
Mrs D.J. Guise	Mr J.A. McGinty	Mr A.P. O'Gorman	Ms M.M. Quirk *(Teller)*
Mr S.R. Hill	Ms S.M. McHale	Mr J.R. Quigley	

Noes (17)

Mr C.J. Barnett	Mr B.J. Grylls	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr J.L. Bradshaw *(Teller)*
Mr M.F. Board	Mr M.G. House	Mr R.N. Sweetman	
Dr E. Constable	Mr R.F. Johnson	Mr M.W. Trenorden	
Mrs C.L. Edwardes	Mr W.J. McNee	Mr T.K. Waldron	

Pairs

Mr J.C. Kobelke	Mr A.D. Marshall
Mr J.J.M. Bowler	Mr M.J. Birney
Mr M. McGowan	Ms S.E. Walker
Dr G.I. Gallop	Mr R.A. Ainsworth

Independent Pair

Mr P.G. Pendal

Clause thus passed.

Clauses 84 and 85 put and passed.

Postponed clause 29: Section 52 amended -

Resumed from an earlier stage of the sitting.

Mrs C.L. EDWARDES: Prior to this clause being deferred, we were in discussion with the minister. She has since been allowed time to talk to her officers to consider the proposed amendments. The member for Hillarys has put forward an amendment to clause 29, which amends section 52 of the Act. It concerns the upper age limits of people wanting to adopt a first child and then second and subsequent children. The amendment by the member for Hillarys recognises that with an adoptive couple there is often an age difference between the partners. If the Government's amendments were followed, a married couple, or a couple, would be discriminated against because of an age difference between the partners. The member for Hillarys' amendment provides a lower age limit of 45 years and an upper age limit of 55 years for the older partner. In the instance of a second child, the lower limit is proposed to be 50 years, with 60 years as an upper limit. There is no argument about the difference between a single parent who wants to adopt: the age limits remain 45 years and 50 years. If a person is one of a couple, the younger partner follows the same age bracket; that is, 45 years and 50 years. The minister is very concerned to ensure that there be an upper age limit. It is not one that is totally agreeable. However, if an upper age limit is required, the member for Hillarys has proposed that we change it to reflect the ages of 55 and 60. My amendment to his amendment reduces that by a further five years in each instance: 55

years to 50 years and 60 years to 55 years. That is an attempt to accommodate the minister's concern about having an upper age limit for the second adoptive parent. I put it to the minister that if we use the age limits of 45 years and 50 years for a sole adoptive parent or for the younger partner of a couple who wish to adopt, we are not being discriminatory. As soon as we consider a couple as prospective adoptive parents and we do not allow for the second parent - in whatever way - we are being discriminatory against a couple as against a prospective single adoptive parent. I argue strongly to the minister that all her arguments lack logic in talking about how old a second prospective adoptive parent can be. The minister put forward the argument that the older parent may die. That can be the case, as it can be for the younger parent. In any event, even if the older parent dies, the remaining partner is in a position no different from that of a single prospective parent. This clause clearly and openly discriminates against a couple, married or not. It clearly discriminates against a couple as opposed to a sole prospective parent. If the minister wishes to have an upper age limit for the second prospective parent, I urge her to accept my amendment on the amendment moved by the member for Hillarys if she does not wish to accept his amendment. It provides for no difference whether a person is a sole prospective parent or whether a younger parent is one of a couple. As such, it allows for some equity.

Mr R.F. JOHNSON: I had hoped that my amendment would be agreed to by the minister. It is obvious that it will not be; she has already told me that. I accept that she does not accept my amendment and that she will have her way. The member for Kingsley has put forward a very reasonable compromise with her amendment. It would certainly alleviate a lot of problems in the community given there is age discrimination in the existing legislation and there will still be discrimination when these amendments are enshrined in law. I am talking about the discrimination that reflects the age gap. What has the member for Kingsley asked for? We are discussing her amendment to my amendment. I wholeheartedly endorse her amendment because I feel that half a cake is better than no cake at all. We can achieve a sensible compromise between both sides of the Chamber tonight. We are offering a compromise. All we are asking is an extra five-year gap. The Government is quite happy for a 50-year-old to adopt a child - a baby - under this Bill, and it is also happy for a 45-year-old homosexual to adopt a baby, but it will not agree to a very sensible compromise to cater for a couple in a stable marriage or de facto relationship. I am talking about people in stable marriage-like relationships - the norm - who represent a normal family environment that children deserve and have a right to expect. The Government is denying children that right by being intransigent about the amendment on the amendment. The member for Kingsley recognises that the Government will not accept a 45-year age gap for the younger of the two parents and a 50-year age gap for the older of the two parents, yet it is happy for a 50-year-old to adopt a baby simply because it may be the second or third adopted child. It is still a baby. The minister's rationale flies completely out the window.

The minister is not making sense by sticking to her guns out of what appears to be pure stubbornness. The Opposition is putting forward a very respectable and responsible amendment. We are asking the minister to agree to the amendment on the amendment. I will provide members with an example of a first child who is to be adopted by a couple. The man is 46 and the wife is 27 or 28 years old; she is still a very young woman. Plenty of women have babies at that age. I ask the minister not to deny that couple the right to offer a baby a wonderful, loving and caring home just because of the ridiculous age gap. We have reduced to 50 years the upper age limit of 55 years. If a 38-year-old woman and a 46-year-old man adopt a child, which is covered by the member for Kingsley's amendment -

Mrs C.L. Edwardes: For the first prospective child.

Mr R.F. JOHNSON: Yes. By the time that child is 20 years old, the adopting mother would be 58 years old. For goodness sake, there are plenty of women members in this Chamber around that age, and I am sure that they would make perfectly good mothers. Plenty of men in this Chamber who are 46 years old or over would make perfectly good fathers. Why will the minister not agree to this very responsible amendment and agree to the compromise that I have put forward? That must be a better situation for the child than some of the other areas in which the Government wants to place children.

Dr E. CONSTABLE: If this debate about age were not so serious, it would be funny. It is a very serious point. The minister would have saved herself an awful lot of grief if, in the beginning, she had accepted the notion that was put forward in New South Wales, Victoria and the Australian Capital Territory, and in my private members' Bill, that this legislation does not need to have an age criterion. By placing it in the legislation, we will discriminate against people on the basis of age. The minister has compounded the problem by not addressing the issue that the two amendments suggested by the member for Hillarys and the member for Kingsley start to address. Several times during this debate I have given an example that the minister has not properly addressed. The example I gave was that a 35-year-old single woman can adopt a newborn baby but a 35-year-old woman with a 46-year-old partner cannot. If, as my proposed amendment on the Notice Paper suggests, we base the age

criteria on the age of the younger person, it would almost solve the problem. It would at least solve the issue of this dreadful discrimination between a single woman and a couple that exists in this legislation.

I urge the minister to consider the three possible amendments. I urge her to consider my amendment because I think it is more simple and elegant than the others, because when we fiddle with the upper age limits, it becomes a much more complicated issue. We must trust the people who will make the decision about whether the right people to adopt children are single people or couples. Those people can assess the age combination of couples and the age of single people. They can look at all the other important factors and decide who will be the best parent for the child. That would take the best interests of the child into consideration and put the child first. I have not moved my amendment, but we seem to have three amendments floating around. I urge the minister to give us some indication of her thinking on this matter.

Ms S.M. McHALE: Let us take a breath. In my view, we are now making legislation on the run. For months and months I have canvassed the views of the community regarding the vexed question of age. I have also built on the legislative review that was conducted a number of years ago. The Government's intention to have an age gap of 45 years for the first child and 50 years for the second child has been out in the community for some time. That has enabled the community time to give me its response and to consider the pros and cons of the different positions. At one stage, if the newsletters are correct, the member for Churchlands was going to introduce a private members' Bill with an age limit.

Dr E. Constable: That is incorrect.

Ms S.M. McHALE: In that case, the newsletter or one of the organisations is wrong. So be it. The member can say that it is wrong; however, the member is reported as wanting to introduce legislation based on an age criterion. I have been canvassing and talking to the organisations concerned and I have received correspondence from them with regard to the age issue. It is generally recognised that if we are to have an age criterion, an age gap of 45 years is reasonable and sensible. We have decided that we will have an age criterion in the legislation. I will give the Opposition credit for trying to work out a solution to the age differences between the ages of couples and single people who want to adopt a baby. However, the Opposition is not solving the problem. A 37-year-old who is married to a 56-year-old would not be eligible to adopt. The Opposition is just widening the goal posts.

Mr R.F. Johnson: How can you use that example?

Ms S.M. McHALE: Excuse me! Under the member for Hillarys' provision, a 37-year-old and a 56-year-old -

Mr R.F. Johnson: Not under the provisions we are currently talking about.

Ms S.M. McHALE: Under the member's current amendment, that couple would not be eligible to adopt. By way of example, I am highlighting that the Opposition is not solving the problem.

Mr R.F. Johnson: We are getting nearer to it than you are.

Dr E. Constable interjected.

Ms S.M. McHALE: With respect, member for Churchlands, I have looked at ways of trying to resolve this conflict between single people and couples who wish to adopt children.

Mrs C.L. Edwardes: It is discrimination.

Ms S.M. McHALE: The member for Kingsley wants to introduce reverse discrimination, but that would not solve the problem. The Opposition's amendment would extend the age criterion for older parents to adopt children. I come back to the basic point: we have more adoptive parents than we have children to adopt. That is still the case for overseas adoptions.

Mr R.F. Johnson: No, it is not. You are quoting the European council debate.

Ms S.M. McHALE: I remind the member that I canvassed this advice in the House from -

Mr R.F. Johnson: You show me evidence where the United Nations -

The ACTING SPEAKER (Mr J.P.D. Edwards): The member for Hillarys should allow the minister to reply.

Ms S.M. McHALE: I will ask the member to read *Hansard*, because I quoted an e-mail from a person from the United Nations Children's Fund.

Mr R.F. Johnson: Saying what?

Ms S.M. McHALE: If the member was not here when I raised the issue, he should read *Hansard*.

Mr R.F. Johnson: I think you are incorrect.

Ms S.M. McHALE: The member should read what I said in *Hansard*. The man from UNICEF, Nigel Cantwell, provided advice. I do not see why I should waste the time of the House by reading the e-mail, which states said that it seems clear that, overall, the number of those wishing to adopt considerably outstrips the number of children identified as being legally adoptable. The member for Hillarys should not say that I am not quoting from considered advice. I have gone through that before and I am not going through it again. The fact is that here and internationally there are more adoptive parents than there are children to adopt. There is a view among those involved in adoption, which is not shared by everybody, that 45 years is a reasonable age limit. The member for Kingsley did not offer me a compromise; I offered the member the option of considering amending her amendment to reduce the upper age limit to 50, and I will not go beyond that.

Mrs C.L. EDWARDES: The minister is wrong. Clearly, her logic does not stack up when it deals with sole prospective parents as opposed to couples who wish to be parents. As such, the Gallop Labor Government is again discriminating against couples.

Mr R.F. JOHNSON: The minister gave us some hope before the dinner break that she might accept the amendments moved by the member for Kingsley as reasonable and responsible, as they meet the criteria. They do not provide equal opportunities to everyone. Unless one has no age discrimination, as the member for Churchlands said, one is discriminating. However, the age limits put forward by me were reasonable, but the age limits proposed by the member for Kingsley should be more reasonable in the minister's eyes. We are talking about only five years difference for the older limit, not the younger one. The 45-year age gap will remain. The Opposition says it should be the younger limit. We have brought down our age limit of 55 for the older parent to 50. Chances are, rarely would somebody who is 50 apply to adopt a child. They may be 46 to 48 and the partner, normally the wife, would be in her early 40s or late 30s. That scenario is common out there. It happens every day.

Ms S.M. McHale: That's why I was prepared to look at 50 as the upper limit.

Mr R.F. JOHNSON: We have set 50 as the upper limit.

Ms S.M. McHale: For the first child.

Mrs C.L. Edwardes: If they wanted to adopt a second child, they would be cut out totally.

Mr R.F. JOHNSON: The young person is still well within the 45-year age gap, even for a second or third child in most scenarios. The minister is denying that opportunity. The fact that the Government will not agree to a very reasonable and responsible amendment shows that the minister and the Gallop Labor Government are totally anti-family. They are discriminating against families wanting to adopt children. The minister is happy for homosexuals with a gap of 45 years between the child and parent to adopt children, but the minister will not let a family unit adopt a child if one of the prospective parents has a gap in age of more than 45 years.

Ms S.M. McHale: They can adopt a child.

Mr R.F. JOHNSON: No, they cannot adopt a baby.

Ms S.M. McHale: Yes, they can - a one-year-old, a two-year-old or a three-year-old.

Mr R.F. JOHNSON: They could adopt at 70 using that criterion. One could adopt a 15-year-old. Most people like to adopt a new-born baby - a three-month-old baby - so they can do all the things necessary to help that child. Give me a child for the first three years, and I will show the end result. They are the most formative years in any child's life - the minister is a mother and knows that to be the case. The first three years are essential. If a couple wants to adopt a child and provide a loving home, they should be able to adopt a one to four-month-old baby to do the very best they can for that child. The minister and the Gallop Labor Government are anti-family because they are happy for a homosexual or a single person with an age gap of 45 years to adopt a child, but not prepared to allow a family unit of a mum and a dad to adopt a child when the youngest member has a gap of 45 years and 50 years for the oldest member. When a 40-year-old woman adopts a child and that child reaches 20, the woman will be 60. She has every chance of living to be 90 and ending up a grandmother. The minister is so anti-family that she is not prepared to agree to this responsible and reasonable amendment. It will be on the minister's head -

Ms S.M. McHale: That's fine.

Mr R.F. JOHNSON: The minister should, and will, be shamed because her legislation is unquestionably anti-family. Do not give me rubbish about this being in the best interests of the child - we have already seen that to be a myth.

Mrs C.L. Edwardes: If this proposal were considered regarding the best interests of the child, the minister would accept my amendment in terms of the second prospective child. She says that once people have had a first child, and one of the parents is over 50 years, that child will never have a sibling.

Mr R.F. JOHNSON: Exactly. The minister is denying a normal family environment of mum and dad and one and perhaps two children, which would be in the best interests of those children. I am interested only in the best interests of the children.

Ms S.M. McHALE: I put forward the proposal of a 50-year gap as a way of moving forward. If the Opposition does not want it, that is fine. Our position remains 45 and 50. We are not moving from that position. That was part of our legislation as considered for many months out in the public arena as a means of trying to accommodate and to be bipartisan. Let us make it 50. I am not prepared to accept the amendment of the member for Kingsley. The problem with the proposition of the member for Churchlands is the open-endedness of the age of the other party. I put the proposal forward as a way of trying to move forward. Our position is clear; namely, 45 and 50. We have canvassed all the ins and outs of the age matter. We thought it might be a way of moving forward. Let us put it to the vote and move on.

The ACTING SPEAKER: Before putting these amendments to a final vote, I remind members that the member for Hillarys has moved three amendments en bloc and that the member for Kingsley's amendments seek to amend the last amendment of the member of Hillarys. The question is that the first two amendments in the name of the member for Hillarys be agreed to.

Amendments put and negatived.

The ACTING SPEAKER: The question is that the member for Kingsley's amendments to the member for Hillarys' third amendment be agreed to.

Amendments on the amendment put and a division taken with the following result -

Ayes (19)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr R.F. Johnson	Mr M.W. Trenorden
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr W.J. McNee	Mr T.K. Waldron
Mr M.F. Board	Mr B.J. Grylls	Mr B.K. Masters	Dr J.M. Woollard
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr J.L. Bradshaw *(Teller)*
Mr J.H.D. Day	Mr M.G. House	Mr R.N. Sweetman	

Noes (23)

Mr P.W. Andrews	Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr P.B. Watson
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	Mr M.P. Whitely
Mrs D.J. Guise	Mr J.A. McGinty	Mr A.P. O'Gorman	Ms M.M. Quirk *(Teller)*
Mr S.R. Hill	Ms S.M. McHale	Mr J.R. Quigley	

Pairs

Mr A.D. Marshall	Mr J.C. Kobelke
Mr M.J. Birney	Mr J.J.M. Bowler
Ms S.E. Walker	Mr M. McGowan
Mr R.A. Ainsworth	Dr G.I. Gallop

Independent Pair

Mr P.G. Pendal

Amendments on the amendment thus negatived.

Dr E. CONSTABLE: I also have an amendment to page 14, after line 25. I would like to move that amendment now.

The SPEAKER: We are currently debating the -

Dr E. CONSTABLE: The member for Kingsley told me that this is the appropriate time to move this amendment. These amendments have been very complicated.

The SPEAKER: It is not an amendment to the amendment. The member for Churchlands is intending to amend the clause rather than the amendment. Is that right?

Dr E. CONSTABLE: My amendment deletes a few words from the member for Hillarys' amendment.

The SPEAKER: The amendment I am looking at seeks to insert two paragraphs on page 14, after line 25.

Dr E. CONSTABLE: I am in your hands, Mr Speaker. We are dealing with the member for Hillarys' third amendment.

Amendment put and a division taken with the following result -

Ayes (18)

Mr C.J. Barnett	Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron
Mr D.F. Barron-Sullivan	Mr J.P.D. Edwards	Mr W.J. McNee	Dr J.M. Woollard
Mr M.F. Board	Mr B.J. Grylls	Mr B.K. Masters	Mr R.N. Sweetman *(Teller)*
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.D. Omodei	
Mr J.H.D. Day	Mr M.G. House	Mr M.W. Trenorden	

Noes (23)

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Mr S.R. Hill	Ms S.M. McHale	Mr J.R. Quigley	

Pairs

Mr A.D. Marshall	Mr J.C. Kobelke
Mr M.J. Birney	Mr J.J.M. Bowler
Ms S.E. Walker	Mr M. McGowan
Mr R.A. Ainsworth	Dr G.I. Gallop

Independent Pair

Mr P.G. Pendal

Amendment thus negatived.

Dr E. CONSTABLE: I move -

Page 14, after line 25 - To insert the following -

(iiib) is, in the case of two prospective adoptive parents jointly seeking to adopt a child, the younger prospective adoptive parent is not more than 45 years older than the child in the case where the prospective adoptive parents have not adopted a child before;

(iiic) is, in the case of two prospective adoptive parents jointly seeking to adopt a child, the younger prospective adoptive parent is not more than 50 years older than the child in the case where the prospective adoptive parents have adopted a child before;

This amendment provides the ideal compromise between the view that I expressed in the second reading debate that there should be no age limit and that everyone who wished to make an application should be able to do so, and that a person's application should be assessed on its merits. Of course, the experts who assess the application will take age into account. This amendment provides a compromise between that view and the view that we should have age limits. It also provides a compromise to the view presented by the members for Kingsley and Hillarys, who in trying to make sense of the problems associated with this clause have tried to assess an age that could be an upper limit. They have tried to take into account the terrible situation that the minister's legislation has created and that she has not solved -

Ms S.M. McHale: The minister's legislation does not create a problem. The problem exists now.

Dr E. CONSTABLE: Yes, it does. The minister can have her go in a minute.

Ms S.M. McHale: The member should be correct.

Dr E. CONSTABLE: It does create a problem, because a single person of a particular age - in the example we have been using it is 35 - can apply to adopt a newborn whereas a married couple, with one member aged 35 and the other aged 46, cannot apply to adopt a newborn. That discriminates against the younger member of the couple. This amendment will allow for the upper age limit in the minister's legislation - namely, 45 for the first child - to apply to the younger member of the couple. I hope the minister will see that that will go a long way towards solving the terrible discrimination in the minister's legislation and the problems that are created by an arbitrary age limit. A lot has been said about age; there is no need to repeat all the points that have been made. I say one more time it is a great pity that the minister does not think it is worth following the lead of Victoria, New South Wales and the Australian Capital Territory and having no arbitrary age limit in the legislation, but allowing experts to assess those who apply to adopt.

Ms S.M. McHALE: I want to correct the member for Churchlands. It is wrong for the member to say that my amendments create this problem. This problem has been in the -

Dr E. Constable: They do, and you know it.

Ms S.M. McHALE: Excuse me, member for Churchlands. The member should not say that my amendments are creating the problem when the problem has been in the legislation since 1994 and could have been dealt with previously.

Dr E. Constable: You are discriminating against people on the basis of age.

Ms S.M. McHALE: I will spell it out so that the member will know that this is not a problem of my creation. Under the current legislation, a 35-year-old single person can adopt a newborn but a 35-year-old person who is married to a 41-year-old cannot. The member should not say that this problem is a creation of this amendment, because she is wrong. I am surprised that the member is not thorough enough -

Dr E. Constable interjected.

Ms S.M. McHALE: What is perpetuating the problem is the collective decision to have an age criterion. I cannot see a way around that. That is the situation. Perhaps in a number of years we will look at the matter through the review. I will not accept the amendment, for the reason that it still has the problem of an open-ended upper age. I gave the member the opportunity of trying to find a compromise around an upper age limit of 50. The member chose not to accept that compromise position. So be it; our current position remains.

Mr R.F. JOHNSON: Let us get the facts straight. We gave the minister the option for a compromise; she did not give that option to us. We gave the minister two opportunities: The first was my amendment, and the second was the amendment from the member for Kingsley. The minister now has a third amendment that she can look at, which goes halfway between the original amendment that the member for Churchlands moved, in which there was no age discrimination whatsoever, and the legislation that is before the House. The minister would accept neither my amendment nor the member for Kingsley's amendment, and I know that she will not accept the member for Churchlands' amendment.

Ms S.M. McHale: Let us put it to the vote.

Mr R.F. JOHNSON: We will in just one moment. I do not want to waste any time. I just want to get it on the record that I thought my amendment was the best amendment; and that is not because I am being selfish. Secondly, I thought the member for Kingsley's amendment was a compromise between my amendment and what the minister was looking at. The member for Churchlands' amendment goes further than mine. I will support the member for Churchlands' amendment on a matter of principle, because at least we are putting forward some constructive, reasonable and responsible amendments to the minister's legislation. This is of the minister's making. The minister has the opportunity to put things right. It is no good criticising the previous Government and what has been in the legislation for the past 10, 20, 30 or 40 years, because every member who is in the minister's position has the opportunity to change things.

Ms S.M. McHale: I agree.

Mr R.F. JOHNSON: The minister has the opportunity today to make things right, to make things fair and to make things good for children - not for homosexuals and not for single people, but for children.

Mr A.J. Carpenter: Give it a rest! We are getting sick of this!

Mr R.F. JOHNSON: The minister will get more sick of my saying this, because I put the best interests of the child first every time. This minister is absolutely anti-family, because she is discriminating against a family unit adopting a child in preference to a single homosexual male aged 45 adopting a child. I and my colleagues will support the amendment moved by the member for Churchlands.

Mr J.N. Hyde: But you would not support it if it referred to a gay 50-year-old, would you! You are homophobic.

Mr R.F. JOHNSON: It is everybody.

Mr J.N. Hyde: So you would support a 50-year-old gay person?

Mr R.F. JOHNSON: Move the amendment and see how I go. The member might be surprised. Members on this side of the House support the amendment.

Amendment put and a division taken with the following result -

Ayes (19)

Mr C.J. Barnett	Mr J.H.D. Day	Mr M.G. House	Mr M.W. Trenorden
Mr D.F. Barron-Sullivan	Mrs C.L. Edwardes	Mr R.F. Johnson	Mr T.K. Waldron
Mr M.F. Board	Mr J.P.D. Edwards	Mr W.J. McNee	Dr J.M. Woollard
Mr J.L. Bradshaw	Mr B.J. Grylls	Mr B.K. Masters	Mr R.N. Sweetman *(Teller)*
Dr E. Constable	Ms K. Hodson-Thomas	Mr P.D. Omodei	

Noes (23)

Mr P.W. Andrews	Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr P.B. Watson
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	Mr M.P. Whitely
Mrs D.J. Guise	Mr J.A. McGinty	Mr A.P. O'Gorman	Ms M.M. Quirk *(Teller)*
Mr S.R. Hill	Ms S.M. McHale	Mr J.R. Quigley	

Pairs

Mr A.D. Marshall	Mr J.C. Kobelke
Mr M.J. Birney	Mr J.J.M. Bowler
Ms S.E. Walker	Mr M. McGowan

Independent Pair

Mr P.G. Pendal

Amendment thus negatived.

Mr R.F. JOHNSON: I will be fairly brief with my comments. We are now speaking to clause 29. There are no amendments on this clause; it is exactly as it is in the Bill. We have dealt with clause 29(1). I will deal mainly with clauses 29(2) and 29(3). Clause 29(2) adds to what is already in the Act for ensuring that the cultural background of a child adopted from overseas is recognised and encouraged, so that the child being adopted will be taught about its culture by its adoptive parents. I do not have a problem with that; it is already in the Act. However, the minister wants to embellish what is already in the Act with the words added by this amendment. The subclause (2) reads, in part -

> (v) meets, if relevant, the child's wishes;
>
> (va) recognises the value of, and need for, cultural and ethnic continuity for the child;
>
> (vb) shows a desire and ability to continue the child's established cultural, ethnic, religious or educational arrangements;

That is going over the top a bit, and it may be an undue burden on prospective adoptive parents to follow it to the letter. Unfortunately, it will be enshrined in law once this Bill has gone through. It is a bit over the top. What is presently in the Act is perfectly sufficient. It ensures that prospective adoptive parents will, wherever possible, teach a child its cultural background and its ethnicity. That is what adoptive parents would do already. I am confident that responsible adoptive parents would want to ensure that their child has a good and full knowledge

of its cultural background. I will not vote against this subclause. I have made my point. It is over the top and unnecessary.

The provision on which the House will have to have another division is clause 29(3). We have already had a division on that one. We have talked about the Aboriginal child placement principle, and we are coming back to it again. I have a very fundamental difference with the minister on this clause. To be consistent, I must speak and vote against it. Once again, this part of the Bill is discriminatory, separatist and divisive. A group of children in the community, namely Aboriginal children, are being segregated and treated differently from all other children in Western Australia, just because they are Aboriginal children and because this patronising socialist Government wants to do this sort of thing. It is doing no favours for Aboriginal children by enshrining this principle in law. It is doing them a disservice. A lot more good can come from treating Aboriginal children the same as other Australian children - by doing so many things for them to help with their growth. This principle, which has been found wanting in submissions made to the Gordon inquiry, should not be enshrined in law. It is up to the minister if she wants to have it as a departmental policy, but she should not enshrine in law something that is wrong and could put children at risk. That is what Aboriginal communities have said to the Gordon inquiry. I would be interested in the minister's comments, but I warn that the Opposition will be voting against this clause in its entirety because of what has been left in.

Ms S.M. McHALE: The amendment to section 52(1)(a)(v) is a minor one. It gives effect to the recommendation of the legislative review committee that there be a focus on recognising the value of cultural and ethnic continuity for the child. It is a minor expansion of the current Act.

Mr R.F. Johnson: It is over the top.

Ms S.M. McHALE: It is a minor amendment, bringing a marginal difference, but disentangling some of the language. It reaffirms the fact that cultural background cannot be completely ignored.

Mr R.F. Johnson: It is not ignored in the present Act.

Ms S.M. McHALE: No, it is not, but this is a minor amendment giving effect to the recommendations of the review, and that is where the Government has started from. I understand the Opposition supported this review when in government.

The Aboriginal and Torres Strait Islander placement principles have already been endorsed, and they are now part of the Act. I understand and respect the differences of the member for Hillarys, but clause 29(3) follows on from having endorsed the placement principle in the Bill.

Clause put and a division taken with the following result -

Ayes (23)

Mr P.W. Andrews	Mr J.N. Hyde	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mr D.A. Templeman
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Mr P.B. Watson
Dr J.M. Edwards	Ms A.J. MacTiernan	Mr M.P. Murray	Mr M.P. Whitely
Mrs D.J. Guise	Mr J.A. McGinty	Mr A.P. O'Gorman	Ms M.M. Quirk *(Teller)*
Mr S.R. Hill	Ms S.M. McHale	Mr J.R. Quigley	

Noes (17)

Mr C.J. Barnett	Mr B.J. Grylls	Mr B.K. Masters	Dr J.M. Woollard
Mr D.F. Barron-Sullivan	Ms K. Hodson-Thomas	Mr P.D. Omodei	Mr J.L. Bradshaw *(Teller)*
Mr M.F. Board	Mr M.G. House	Mr R.N. Sweetman	
Mrs C.L. Edwardes	Mr R.F. Johnson	Mr M.W. Trenorden	
Mr J.P.D. Edwards	Mr W.J. McNee	Mr T.K. Waldron	

Pairs

Mr J.C. Kobelke	Mr A.D. Marshall
Mr J.J.M. Bowler	Mr M.J. Birney
Mr M. McGowan	Ms S.E. Walker
Dr G.I. Gallop	Mr R.A. Ainsworth

Independent Pair

Mr P.G. Pendal

Clause thus passed.

Title put and passed.

House adjourned at 10.41 pm