

COMMISSION FOR CHILDREN AND YOUNG PEOPLE BILL 2004

Second Reading

MRS C.L. EDWARDES (Kingsley) [4.01 pm]: I move -

That the Bill be now read a second time.

On behalf of the Leader of the Opposition I am very proud to present this Bill to Parliament today. It is the result of the dedication of Hon Barbara Scott, a passionate advocate in this Parliament for children. It is her hard work and persistence over many years that have made this happen. I would particularly like to thank the draftsman for an excellent piece of work. It is soundly drafted legislation, both succinct and lucid.

The Commission for Children and Young People Bill 2004 will establish a Commission for Children and Young People in Western Australia to promote and advocate the welfare and special interests of children and young people. It enables the Commission for Children and Young People to perform its functions consistently with, and promote voluntary compliance by public and private sector agencies with, the principles of international agreements so far as they relate to children and young people.

I will take some time to outline the background to this Bill. At the World Summit on Children held in May 2002, delegates agreed upon a number of principles. These included -

Put children first - a child's best interests should be paramount to all decisions affecting children.

Care for every child - children must get the best possible start in life. Their survival, protection and growth combined with promotion of good health and proper nutrition are the essential foundations of human development.

Protect children from harm and exploitation - children must be protected against acts of violence, abuse, exploitation and discrimination.

The world summit was the catalyst for the organisation by Hon Barbara Scott, shadow minister for children, of a children's summit in Western Australia on 25 October 2002, held at the University of Notre Dame Australia, Fremantle. It was entitled, "The State of Western Australia's Children". Keynote speakers included Hon Roger McClay, Commissioner for Children in New Zealand; Hon David Malcolm, Chief Justice of Western Australia; Professor Fiona Stanley, Director of the Telethon Institute for Child Health Research; Prue Walsh, a play environment specialist from Queensland; and Isabelle Adams, who is an indigenous education specialist. Some 300 people attended the summit, including children. Invitations were sent to major stakeholders across Western Australia. The overwhelming view of the all-day summit was that Western Australia should have a commissioner for children. All summit speeches were made available on Hon Barbara Scott's web site, and responses to the summit were invited.

In November 2002 the Liberal Party then released a position paper announcing a commitment to a children's commissioner. The document outlined the role and functions of a children's commission and stated that, if necessary, the Liberal Party would, while in opposition, introduce a Bill to establish a children's commission in Western Australia. The Government still refused to agree that Western Australia needed a commissioner for children, despite the fact that it was one of the major recommendations of the Gordon inquiry. Despite opposition from the Labor Government, on 11 June 2003, following a motion from Hon Barbara Scott, the Legislative Council established a three-person Select Committee on Advocacy for Children (Appointment of a Commissioner for Children). The task of the committee was to inquire into and report on the appointment of a commissioner for children or the establishment of an independent office for children, as the most appropriate means of establishing and advocating for children to ensure that the Government and the Parliament are aware of the needs of children and that those needs are reflected in government policy and practice. After extensive consultation with witnesses and receipt of written submissions from individuals and organisations, the committee reported to the Legislative Council on 2 July 2004. The committee recommended the establishment of a commission for children and young people, with a commissioner as its head appointed by the Governor. There are 10 other recommendations describing the role and functions of a commission.

I am pleased that the Liberal Party is able to bring this piece of legislation to this Parliament, but regret that it is necessary. However, the work of Professor Fiona Stanley leaves no doubt that it is needed. Our children today are worse off than they were 30 years ago. They are more abused - this is not merely a figment of increased reporting but a real increase - the drug culture is a major factor here; their emotional health is in decline - family breakdown and the lack of societal commitment to and support for marriage is a primary factor here; their physical health is in decline - they do not get proper nutrition but at the same time are terribly overweight, the fattest kids in the world - they do not get adequate exercise, not even two hours a day, the bare minimum recommended by health authorities.

The World Summit for Children held in May 2002 raised the level of awareness of the position of children and the need for children's commissions. There are now 32 countries and three Australian States - Queensland New South Wales and Tasmania - that have children's commissioners.

This Bill accurately reflects the recommendations of the Legislative Council Select Committee on Advocacy for Children (Appointment of a Commissioner for Children), which reported to the Legislative Council on 2 July 2004. The committee comprised one Liberal Party MLC, one Labor Party MLC, and one Greens (WA) MLC. On that basis I would expect bipartisan support for this Bill. It has the full support of the coalition. It is now up to the Government to put aside the temptation to make any political gain from the suffering of children and say yes, this is the time and this is the Bill that will do what needs to be done.

Part 2 of the Bill establishes a Commission for Children and Young People and the office of commissioner as per recommendations 1, 3, 6 and 11 of the select committee's final report. I quote Hon Barbara Scott, chair of the committee, when reporting to the Legislative Council -

The committee's third recommendation refers to the independence of the children's commissioner. It is important for a special Act of Parliament to be passed that establishes the commission for children as an autonomous body that is outside government. Therefore, it can sit outside the agencies and comment on practices and projects and reflect on the work that agencies do and the needs of the community. The commission needs to be autonomous and free from government direction and control . . .

The committee suggested that the commissioner be appointed by the Governor on the recommendation of the Premier and after consultation with the leader of each political party and at least five members in either House.

It is most important that full and genuine consultation take place, not merely informing leaders before the appointment is made; the leaders or their nominees must be fully involved in the selection process. This is because it is imperative that the commissioner have the total support and backing of this Parliament; the office must not become politicised.

A person to be appointed as commissioner is required to have experience with children and will normally be appointed for a term of five years, once renewable.

The commission is primarily funded through appropriation by Parliament. It is the coalition's position that this should initially be in line with funding provided for the Queensland and Northern Ireland commissions; that is, between \$9 and \$10 per child, which totals approximately \$5 million for Western Australia. That may seem a very small amount, especially given the circumstances of our children, but it is sufficient to enable a solid start.

Recommendation 5 of the select committee report asks the Government to consider a joint parliamentary committee to oversee the commission. The coalition has no objection to such a committee, but, as recommended by the select committee, we leave this to the discretion of the Government. It is therefore not in the Bill.

Part 3 of the Bill deals with the functions of the commission as per recommendations 2, 4, 7, 8, 9 and 10 of the select committee's final report. Section 9(1) of the Bill states -

The functions of the Commission are to protect and promote by any lawful means the interests and welfare of children and young people whether as individuals or as members of the community.

This empowers the commission to undertake the tasks set out for it by the select committee, while at the same time giving the flexibility to adapt to a very difficult and constantly evolving challenge. Some of the functions, duties and powers granted by part 3 include, but are not limited to -

the provision of advocacy for all children and young people. This is the primary function of the commission; it is a voice for children;

the preparation of impact statements on legislation introduced into Parliament that, in the opinion of the commissioner, affect children and young people;

conduct and fund research;

the revision and monitoring of existing legislation to assess its impact on children and young people, with any comments being included in reports to Parliament;

the publication of child-friendly versions of all its public reports;

an employment screening function with the caution that it not overwhelm the commission's other functions;

designing its offices, working environments and work practices to maximise accessibility for children and young people;

the making of submissions on community issues relevant to children and young people;

the power to initiate inquiries into any government agency that impacts on children or young people;
an ability to act as *amicus curiae*;
the power to enter and inspect sites and premises during the course of an investigation.

In carrying out its functions, the commission is required to act consistently with six principles, which are set out in the Bill. These include -

- (1) The contribution made by children and young people to the community has value and merits recognition.
- (2) Children and young people have an inalienable right to live in a caring and nurturing environment and to be protected from harm or exploitation.
- (3) Parents should be supported in their primary role of nurturing and caring for their children.

The coalition is committed to acknowledging that the primary responsibility for the protection, upbringing and development of children rests with the family, which should be supported and protected. Parents are the natural source of values, ethics and behaviour.

- (4) Proper consideration should be given to children and young people's expressions of concern or grievance, particularly where they relate to the condition of children and young people.

In Northern Ireland, which has 500 000 children - approximately the same number as Western Australia - the children's commission has committed to having face-to-face contact with 20 000 children each year. As I said earlier, this is a finely crafted piece of legislation and is necessary to ensure that our children have proper advocacy and protection. I commend the Bill to the House.

Debate adjourned, on motion by Mr J.L. Bradshaw.

Statement by Acting Speaker

THE ACTING SPEAKER (Mr A.D. McRae): I have a statement from the Speaker about the legislation we are dealing with. It reads -

Members

I have had an opportunity to look at the Commission for Children and Young People Bill, which was introduced today by the member for Kingsley on behalf of the Leader of the Opposition. If passed it will establish a new body that is proposed to be funded, at least in part, from consolidated revenue. This type of legislation has always been held by this House to effectively appropriate funds.

Section 46(8) of the Constitution Acts Amendment Act 1899 provides that a vote, resolution or Bill for the appropriation of moneys shall not be passed unless the purpose of the appropriation has been recommended by a message from the Governor to the Assembly.

In accordance with the practice of the House, I rule that this Bill requires such a message. Although debate on the second reading may proceed, at the conclusion of that debate the question for the second reading will not be put to the House. The Bill will then go to the bottom of the notice paper until a message is received.