Legislative Council

Friday, 22 November 1985

THE PRESIDENT (Hon. Clive Griffiths) took the Chair at 11.00 a.m., and read prayers.

PLANNING: HIGH-RISE DEVELOPMENT

Scarborough: Motion

HON. P. H. WELLS (North Metropolitan) [11.03 a.m.]: I move—

That this House—

1. Strongly condemns the Government for its irrational approach to resolving the high-rise development problem at Scarborough and other planning issues, particularly the improper and inappropriate criticism of the City of Stirling.
2. Calls on the Government, in the interests of Stirling ratepayers and the people of Western Australia, to refrain from its confrontationist policy with the City of Stirling.
3. Requests the Government to restore to the City of Stirling, Town Planning delegation-of-powers authority, so that planning decisions can continue to be made by the City's professional planners, as has been the case since 1963 and is the case for local government authorities, under the Metropolitan Scheme.
4. Seeks an assurance from the Government that it will not interfere with the traditional role, responsibility and autonomy of local government throughout Western Australia.
5. Calls on the Government to abandon measures to retrospectively act against developers who have already been given approval under existing planning conditions and in many cases have made a substantial financial investment.

This motion is related to the Government's action and intervention in connection with planning applications by the City of Stirling. It is a very black day for local government in terms of the action it appears the Government is trying to take because subsequent legal opinions question whether the achievement of the Government's goals could be legally achieved.

At the request of the Minister for Planning, the MRPA became involved with the City of Stirling in seeking ways to bring it to heel. Recently an order in letter form was issued claiming to withdraw the city's rights in connection with certain planning matters. Whether or not the MRPA legally has the power to withdraw those rights is questionable, because a legal opinion given to the City of Stirling yesterday indicated that the MRPA did not have that power and the rights came to the City of Stirling through a recently accepted town planning scheme.

I am not questioning whether the legal power or the intention of the action which was originally commenced by the Minister for Planning in asking the MRPA to become involved was aimed at stripping the City of Stirling of its right to make certain decisions and recommendations relating to planning within the City of Stirling. What concerns me in this issue is the likely effect this action will have on the ratepayers, the residents, the property holders or owners within the City of Stirling whom this decision will affect, and the ramifications it will have on employment, development, and investment in other local government areas throughout this State.

I am told by the architects who have rung me that the effect is likely to be that it will cut off a degree of prime investment and will affect individual home owners who may consider upgrading their homes in preparation for the America's Cup, and providing the much-needed accommodation which the Government has been talking about. In fact, I am assured that the majority of the planning requests coming forward are not those of the large developers who are involved in this area that the Government appears to be attacking, but the individual, small property owners; for instance, perhaps a retired person in North Beach or Scarborough has received some superannuation funds and discovers that he is entitled to build a triplex on his block. He approaches an architect who states that it would be a good investment and he would be able to rent two of the units during the America's Cup for a reasonable return. Prior to the Government's action, the architect would have contacted the City of Stirling town planning section. The City of Stirling employs the largest number of professional planners in the metropolitan area. They would meet on site and would discuss the problems of traffic, parking and the like; and, in a one-for-one relationship, a professional person could make a

decision, the architect could get in touch with his client and, while the client was still considering the investment, the City of Stirling could decide whether to grant approval.

The alternative under the new arrangement is that the Town Planning Department and the MRPA will have to employ a number of people. According to the answers I have been given in this House, I am sure the work could be handled by the existing employees. The person who will now be employed, as is the case with most Government departments, will not make the decision. Therefore, there will be no meetings on site and no contact with the person whose job is involved with the local area and who has a local feeling for the problems associated with that area. The architect firstly will have to wait for the application to go through the planning process and there will be consequent delays.

There has been great talk about the need for speeding up the planning process in these matters. With this type of delay, instead of getting back to the client on the same day or a couple of days later after discussing the problems on site, they may now get back to the client in two or three months' time.

After getting planning approval there will be delays in getting building permits and in carrying out advertising requirements, so a building may take eight or nine months to get approval and it will no longer be a viable proposition in terms of the time frame for taking advantage of the investment. In any case, the person making the decision has a number of other competing options. Therefore there is a strong possibility of cutting off a lot of small development which will affect individuals in the City of Stirling. This is at a time when the Government recognises there will be a great need for extra accommodation in an area close to the America's Cup course and will draw a number of people. It is attractive in terms of providing accommodation for the Cup.

One likely effect of the decision is that that accommodation will not be provided because the small investor now has to go through a bureaucratic arrangement. It is not as though there is no experience in these matters. Architects have dealt with the same department and they know the time frame they have to work in and the type of problems they face in getting a one-to-one relationship with the person who makes decisions. They know the types of delays involved.

It could be claimed that the Government's action is attacking high-rise development, but it is purely a cover-up for the Government's earlier support of this project. The original proposition for a high-rise development went to the City of Stirling when the council was controlled by members who supported this Government. If one checks the records of the City of Stirling one sees that the Scarborough high-rise development started when that was the situation on the council, and the Government is now trying to hide its involvement.

Hon. Graham Edwards: The ALP did not have the numbers in that decision.

Hon. P. H. WELLS: All right. If the support for the project on that occasion is questioned, I suggest members read *The West Australian* of May this year on the occasion of the casino being introduced in this State. The Premier said—and I accept that he speaks for the Labor Party—that the casino and the Austmark development at Scarborough were the type of job creation programmes this Government supported. How do members opposite reconcile that with the statement of one of the Government's senior Ministers who has sought on every occasion to attack the City of Stirling and reverse the development? Surely the decision of whether it is right or wrong must rest in the first place on questions of town planning and protection for the people of the area. Those safeguards are designed by the parliamentary system. Surely in the systems we devise and the laws we pass we have a mechanism which ensures that if any change is to occur in an area the people must have an input. The local government authority involved—in this case the City of Stirling—has not been charged with failing to carry out the requirements of the Act to ensure there is a total input from the people of the area.

The council has not only carried out all its responsibilities so that there is no area of legal challenge, but since the project was approved there have been council elections and the councillors for those wards have been returned. The Government continually says, "Let the voters decide." If the voters for that area exercised their right and decided to return the councillors who passed the projects after due consideration and publication of the necessary details as required by this Parliament, surely it can be said the council is carrying out the wishes of the people in that area. It would appear the Minister for Planning is carrying on a vendetta and is attacking the council.

Let us consider some of the insinuations he has made, along with a number of Ministers. The first is the accusation that the council is political.

Hon. Fred McKenzie: Of course it is! It is dominated by the Liberal Party, and you know it.

Hon. P. H. WELLS: I could not deny that there are members on the council who have expressed views in support of the Liberal Party. By the same token, can Hon. Fred McKenzie deny there are not members on the same council who espouse the policies of the ALP?

Hon. Graham Edwards: We have always admitted it; your people have never had the courage to do so.

Hon. P. H. WELLS: On that council I happen to know people who espouse and follow religiously the views of one of the religious groups, whether Catholic, Anglican, or a number of others; but I have not heard any accusations about their being members of a religious group. I have never had any councillor of the City of Stirling phone me over a matter going before the council and ask for my opinion or for an input about the council's decision.

Hon. Peter Dowding: Cash provides it directly.

Hon. P. H. WELLS: If the Minister is saying that it happens because Mr Cash is a councillor and also a member of Parliament, I remind him that Hon. Graham Edwards was in the same situation.

Hon. Peter Dowding: For how long?

Hon. P. H. WELLS: If members look at the history of the council they will see that a large number of members of Parliament have carried on making a contribution to the local area while still being a member of this Parliament whether of the Liberal Party or the Labor Party.

Hon. Graham Edwards: Check my record and you will see I voted on issues, not *en masse* and *en bloc* as members opposite do in this House. You have never had the courage to cross the floor.

Several members interjected.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): Order! Hon. A. A. Lewis will come to order and will not start debating across the floor.

Hon. P. H. WELLS: The remarks coming from the Minister for Planning, Hon. Graham Edwards, and Hon. Fred McKenzie prove my next point: This Government and its members are attacking the council because they believe it has a number of members who support the Liberal Party in some way. As a result we consistently find the decisions that Ministers are making and their attacks on councillors are based on politics rather than issues and take no account of professionalism in the area of town planning.

The sad situation is that a developer seeking planning approval under this Government under the new town planning arrangements for the City of Stirling will have to take a variable into account because now when an application is rejected a developer cannot be certain that that rejection was based on a town planning principle. He will have to take a variable into consideration which he cannot calculate—there may have been a political decision, and if there are a few votes in a development the Minister may override it, and so the planning decision is based more on political than planning considerations.

That is very clear in a number of ways. Firstly, the Minister for Planning said that he would be the single influence on the new planning authority, and he would give directions. I wonder what sort of directions he will give in connection with the City of Stirling, and how many of those decisions will be based on town planning principles or his political principles.

Hon. A. A. Lewis: What does that do to the appeal to the Minister provisions?

Hon. P. H. WELLS: If the Minister decides to influence decisions, I, too, wonder what sort of appeal provisions will be left. Perhaps it will be easier for the Minister to make decisions, but once again the system which was devised over many years by this Parliament in order to ensure that fair planning decisions were made is being undermined by this Government and this Minister.

The demonstrations of members on the Government side of this Chamber indicate their feelings on this issue, and the fact that these feelings are purely political.

Secondly, the Minister is recorded in the Press as saying, "Now that's one all", when the decision on the Spindrifter project was made. Anyone who knows anything about the matter will know very quickly what the Minister was referring to.

Another issue in which the Government has taken on the City of Stirling was that which occurred in the confrontation over the Chinese restaurant—

Hon. Fred McKenzie: There you go again—being party political.

Hon. P. H. WELLS: I will just read this article if I may—

Hon. Tom Stephens: I wish you wouldn't.

Hon. P. H. WELLS: Mr Stephens does not want me to read this, so I will summarise it. On that particular occasion, the Premier, being the patron of the Chinese restaurant owner, and Mr Burkett, a former Councillor and Mayor of the City of Stirling, sent a letter to investors who know that the ALP could not afford a commercial lot. While Mr Burkett was the Mayor of the City of Stirling, he was hoping to change that area's designation from "residential" into a non-conforming and then "commercial" use so that a Chinese restaurant could be built. However, the Australian Labor Party wanted to build a public Chinese restaurant and the only reason that did not succeed was that the town planning challenge was upheld. The ALP, when it had done its surveys, discovered that the actions of the Government were seen by the public as threatening the council and taking away its rights. It was perceived as the big hand coming down, and the Government had to back off. Since that occasion, the Government has sought to find ways in which to get at the City of Stirling.

Hon. Peter Dowding: That is not true. There is not a skerrick of evidence. That is a silly argument, just as silly as when the CEP thought they were being discriminated against.

Hon. P. H. WELLS: I wonder whether the Minister remembers the Minister for Town Planning saying that the situation was now one all.

Hon. Peter Dowding: The incompetence of the council cannot be hidden by those sorts of assertions.

Hon. P. H. WELLS: I suggest the Minister should talk to journalists of *The Western Mail* because I assure him they could give him chapter and verse of the whole situation.

There is plenty of evidence to suggest that the Government is continually attacking the City of Stirling. It is seeking to pay back that council. It does not own—

Hon. Graham Edwards: You are admitting that they are trying to get a pay-back situation on the Government. *Hansard* has a report of the whole situation.

Hon. P. H. WELLS: The Government is trying to get a pay-back on the council because it lost—

Hon. Graham Edwards:—Because the Liberal Party lost the last election.

Hon. P. H. WELLS: Firstly in respect of the Chinese restaurant, the City of Stirling upheld the original town planning application that was made by the Premier of this State, in his capacity as a member of the ALP. The council maintained the same planning scheme which had originally been applied for. It was not imposing any conditions that did not exist within the application that had been made. In other words, the council said to the ALP, "You may use the restaurant for what you applied, for what was advertised, and for what was approved." Thus the council did not impose any conditions that had not already been asked for. However, after that approval was given, the ALP sought to vary its application and sought to change it. Consequently, rather than merely seeking an application for a club restaurant, the ALP was attempting to secure a restaurant that was available to the general public.

Hon. Peter Dowding: Your Liberal Party colleagues in the City of Stirling took a political decision about what was essentially a planning matter. That is the real gravamen of the offence.

Hon. A. A. Lewis: You just wanted to alter the original decision.

The PRESIDENT: The Minister will not interject, nor will Hon. A. A. Lewis respond.

Hon. P. H. WELLS: This matter is well-documented, and it is obvious that the ALP made a political decision in stepping back from the Chinese restaurant because it discovered that the people of this State would not stand for a Government which was attacking the City of Stirling in such a way in respect of this decision. The survey available to the ALP was information available to other people as well. That survey indicated to ALP members that on this particular issue they were wrong and the people were not with them, so the party decided to leave the matter alone.

The matter is documented and it is obvious that the Government since that time has continually sought to get at the City of Stirling, to the detriment not only of that local authority but also of the individual investors, particularly through this latest decision. I wonder how this will affect the average person who lives within the City of Stirling and who wants, for example, to build a duplex or triplex which is architect-designed. I wonder how this will affect his planning ability and whether he will be able to get a quick decision in terms of plan-

ning matters, when the local planner is a professional person. I doubt whether even Hon. Graham Edwards would say of the planners of the City of Stirling that they are anything but professional. Such people give advice in relation to the job they are employed to do, and they are being passed by this Government—

Hon. Graham Edwards: They are being directed by political people with no experience in planning. That is the trouble with the City of Stirling.

Hon. A. A. Lewis: Directed by the MRPA, which is directed by the Minister.

Hon. Graham Edwards: No.

Hon. P. H. WELLS: Hon. Graham Edwards made an interesting point when he said that the MRPA is not directed by the Minister. If he were to say that the MRPA does not have the Minister sitting in its offices every day, he would be correct. However, if Hon. Graham Edwards wanted to read what is provided under the MRPA Act, he would discover that it can do several things provided the Minister allows it to do so, and in consultation with the Minister. The MRPA certainly is allowed under that Act to do as it wishes, but it would certainly be influenced by the Minister in terms of directions.

Hon. Graham Edwards: Are you saying that the latest decision was a decision of the Minister for Planning?

Hon. P. H. WELLS: The Minister raised this issue and asked the MRPA to act. The end result is this action of the MRPA which has removed, or claimed to remove—and there is some question of whether it has any legal authority to do so—the City of Stirling's legal authority relating to planning, particularly in respect of the Spindrifter scheme which had already been approved. I am saying that the objection was raised initially because the Minister was trying to find some way to get back at the City of Stirling and had directed the MRPA to take the action it took.

Hon. Graham Edwards interjected.

Hon. P. G. Pendal: It should be one all. What a scandalous thing to happen.

Hon. P. H. WELLS: My statements will bear out that the Government was attempting to get back at the City of Stirling. The Minister referred to the action taken as being one all. I would be interested to know what the Minister meant. I know that when he is challenged he will find some fictitious matter to which he referred as being one all. I suggest that most people understand that the Government is getting back at the City of Stirling for the decision it took on the Chinese restaurant. I suggest that the Minister was acting politically in making that decision and that his decision favoured the ALP. He is seeking to impose upon the City of Stirling some redress because it would not comply with the requests made by the ALP.

Hon. P. G. Pendal: Retribution.

Hon. P. H. WELLS: Yes. I understand that the Minister has broken his oath of office.

Hon. Fred McKenzie: I seem to recall public opposition to the Spindrifter development.

Hon. P. H. WELLS: I will take that issue up in a moment. At the moment I am interested in finding out how the Minister could break his oath of office without any action being taken against him. If we brought to the Attorney General's attention an accusation that had been printed in one of the State's newspapers and an inquiry was held to ascertain whether the Minister had made that accusation and it was proved, surely the Minister would have broken his oath. Surely the Minister, in taking the oath, gives that oath some meaning. Surely Ministers take the oath to protect the people of the State.

Hon. P. G. Pendal: Otherwise we would have corruption.

Hon. Peter Dowding: That is a feeble suggestion.

Hon. P. H. WELLS: Surely if the Minister is allowed to break his oath this time, it creates a dangerous precedent.

Hon. Garry Kelly: That is your opinion.

Hon. P. H. WELLS: I am happy for the Attorney General to set up an inquiry to find the truth about this matter. The breaking of an oath is a very serious matter. If the Minister is allowed to get away with it, the oath will have no meaning and there will be no protection for the people of this State.

Hon. Peter Dowding: Oh, come on!

Hon. P. H. WELLS: It is interesting that the Minister for Industrial Relations is making these interjections because he also makes decisions for his mates.

Hon. Peter Dowding: You know that is not true.

Hon. P. H. WELLS: The Ministers are all lining up to support the Minister for Planning because that is this Government's practice. They are looking after their own.

Hon. Peter Dowding: What nonsense.

Hon. P. H. WELLS: They have learned that tactic from the industrial relations area. A number of builders have phoned me and said that they have received phone calls suggesting that, if they do not put ads in the right newspapers, they will begin experiencing industrial problems.

Point of Order

Hon. GARRY KELLY: Mr Deputy President, I wonder whether you could ask Hon. Peter Wells to lower his voice a bit. Unfortunately, I am sitting here underneath him and it is almost unbearable.

The DEPUTY PRESIDENT (Hon. D. J. Wordsworth): I understand that but, unfortunately, our Standing Orders have no authority over sound. If the member wishes to speak to the gallery there is nothing I can do. I will allow Hon. Garry Kelly to come and sit at the front.

Debate (on motion) Resumed

Hon. P. H. WELLS: Some people have to speak loudly to get through to numbed minds.

Hon. Garry Kelly: It hurts the ears.

Hon. P. H. WELLS: I have to talk loudly to get over the interjections from Hon. Garry Kelly.

I believe the reason the Attorney General is not willing to set up an inquiry into this matter is because he is fearful of the result of that inquiry. Once this matter is brought into the open it is likely to reveal that a number of Ministers are making decisions with no regard for their oath of office.

Hon. Peter Dowding: What an outrageous statement to make.

Hon. P. H. WELLS: That oath requires the Minister to make responsible decisions and not to look after his friends. He should, in dealing with town planning matters, make fair decisions with the interests of the State at heart.

Hon. Graham Edwards: Are you suggesting that the decision was not in accordance with planning procedures?

Hon. P. H. WELLS: There is no evidence—

Hon. Graham Edwards: I will give you the evidence as soon as you sit down.

Hon. P. H. WELLS: It is interesting, Mr Deputy President. I have heard accusations made about irregularities. None of those irregularities has been made known to any of us. The letter which was sent to the City of Stirling stopping work on the project did not indicate what the irregularities were. I have spoken to people involved in this area and it appears that some paper work was not completed in connection with the amalgamation of the blocks in that area. It may be that there have been slight irregularities but there has been no suggestion that those irregularities have affected the development of the project.

If we are going to talk about irregularities, let us talk about the irregularities of the MRPA and its decisions relating to the Secret Harbour project. The decision on that project took something like three or four years. We should compare it with the Mindarie Keys project which took only three or four months. If one wants to dig deeply enough one could find all sorts of irregularities in all projects. However, one should consider whether those irregularities are serious enough to affect the commencement or development of a project. Certainly this project has been going on for years.

We can be certain that the lawyers employed by the developers have checked every facet of the law relating to this investment by the developers. I understand that the Minister took steps to interfere with the financing of the project. Whether the project is right or wrong, that is not a decision for the Minister to take. If a developer fulfils all the requirements laid down by the Parliament and then begins making investments, surely the Minister has no right to interfere in his obtaining the finance to proceed with that development. That could have far-flung repercussions in terms of all developments in this State.

An interesting situation has developed between the developers, the investors, and the people who advise them because of the political variable they will not be able to take into account when making development decisions.

Hon. Garry Kelly: What about the Scarborough ratepayers?

Hon. P. H. WELLS: Hon. Garry Kelly does not listen to me properly despite the fact that he has told me I speak too loudly. He did not listen to my statement in regard to the requirements of the Town Planning Act that allow ratepayers to have an input into the activities of their local authority. The ratepayers have the opportunity at a council election to vote for the councillors of their choice. In the case of the City of Stirling, the sitting councillors in the wards to which I have referred were returned

by the ratepayers at the last election. Therefore, the ratepayers have had, on two occasions, the opportunity to make decisions.

Hon. Graham Edwards: Obviously you do not know much about the people in Scarborough and their feeling towards high-rise buildings. The construction of this building commenced after the last election.

Hon. A. A. Lewis: This Government was in power.

Hon. Graham Edwards: Can you tell me that the Government will stop the development?

Hon. A. A. Lewis: It has stopped this one.

Hon. P. H. WELLS: Hon. Graham Edwards tells me that he listens to me, but he obviously does not understand what I am saying. He is unable to grasp it.

Hon. Graham Edwards: I can grasp it.

Hon. P. H. WELLS: As a legislator, Hon. Graham Edwards has had the opportunity over the last three years to amend the Act if he has a suggestion about providing proper appeal mechanisms regarding Town Planning Board decisions. To date, he has not brought forward legislation to amend the Act.

I am not suggesting that the law should be changed in regard to appeal mechanisms. The proper mechanism has been used by the City of Stirling. On more than one occasion it has held meetings and has considered written submissions from residents about the proposal. During the period of the high-rise issue the sitting councillors for the wards concerned were returned to office.

It is not a question of whether the project should or should not go ahead. That decision must be made by the people who reside in the area because they will be the ones who will be affected. I have no argument about the ratepayers in Scarborough having their say.

Hon. Graham Edwards: You will not support them.

Hon. P. H. WELLS: However, I do have an argument in that having set down the mechanisms to allow people to express their views about the development and allowing the developer to go ahead with the project, this Government proposes to take retrospective action. What sort of confidence can a developer have if the Government believes in retrospective action? It does not matter how much the developers spend, how many jobs are lost, how many developers go broke and lose their homes; this Government reserves the right to retrospectively reverse the Town Planning Department's decisions willy-nilly if it is likely to attract votes. That is not a fair basis on which to build this State. The Government's actions are certainly not in the interests of this State, the ratepayers of Scarborough, or the City of Stirling. It needs to be condemned for what it has done. It appears it is continuing its political vendetta.

Hon. Fred McKenzie made a comment about councils being politically orientated. Let us take, for example, the appointment by this Government of the Chairman of the Metropolitan Region Planning Authority. It is not a hidden fact that the Chairman of the MRPA, the ex-Mayor of Fremantle, made it known that he was a Labor mayor.

Hon. Graham Edwards: He did not hide it.

Hon. P. H. WELLS: Members who have read this morning's paper would know that one Labor supporter is riled by the decision made by the Town Planning Board.

Hon. Graham Edwards: Who are you talking about?

Hon. P. H. WELLS: I am talking about the Mayor of Cockburn.

Hon. Graham Edwards: Does he support the Labor Party?

Hon. P. H. WELLS: He has indicated to me that for many years he has been a sympathiser of the Labor Party.

In this instance, the Mayor of Cockburn has said that the decision made by the board is the worst decision that has ever been made and that it is a black day for local government.

Hon. Fred McKenzie: What do the other 12 people on the board say?

Hon. P. H. WELLS: The other people said that the work order on the Spindrifter development should not be issued. However, despite what they said they went ahead and made the decision.

Hon. Graham Edwards: There are two separate decisions.

Hon. P. H. WELLS: One decision concerned the work order which it was claimed was put on that project.

I suggest to members of the Government that after this House has risen they spend some time electioneering in the Cockburn electorate because it has been indicated to me that that seat is not as safe as the ALP believes it is.

The Mayor of Cockburn disagrees with the project, but he is most upset about the way in which the Government has ridden roughshod

over the developers. As a result, he has offered his services to Austmark as a witness if it intends to take further action against the Government. He is incensed by the Government's action and he believes it stands condemned and that the MRPA is not acting in the best interests of the State.

Provision is made in the Local Government Act for compulsory conferences to be held in matters of this kind and the Minister acts as the mediator to get the people involved together.

Hon. P. G. Pendal: Did he use that provision?

Hon. P. H. WELLS: The Minister did not even suggest it.

Hon. P. G. Pendal: That is interesting.

Hon. P. H. WELLS: I am sure that the Minister for Industrial Relations would have acted as a mediator if a similar circumstance arose with regard to an industrial dispute. However, on this occasion we find that the Minister for Planning is using a mechanism provided by this Parliament to deal with a dispute involving a local authority.

The Government wants to trample on the City of Stirling and no doubt if it were able it would sack that council. However, it is frightened to take that action because of the pending election. Surveys have shown that the people do not support the Government's action. Because the Government is unable to take the action it would like to take, it has sought to find a way to get back at the council. The Minister's mouth condemned him when he said, "Now we are one-all." Local government has indicated through the media what it thinks about the Government's decisions.

I raise this issue on behalf of other local government bodies as well. We are reaching a new era, one in which local government can have no confidence. Many local government representatives give a lot of time with no pay to work on committees in their local areas. For instance, the Mayor of Cockburn, to whom I referred, was involved in another of these disputes, the Farrington Road dispute. Let us look at the Government's action with respect to the matter. The Government attacked the council over Farrington Road and had to back down.

Hon. Graham Edwards: What has this to do with the City of Stirling?

Hon. P. H. WELLS: I am just giving an illustration of the types of decisions made by this Government with respect to local authorities. If Hon. Graham Edwards would listen, he might take it in.

The Minister on another occasion was Mr Hodge. The Government lost out on the issue. Because the Government lost out, it retaliated by removing Mr Don McGill from the Air Pollution Council. The Local Government Association, which speaks on behalf of other local government authorities, supported him and wanted him as its representative on that council. But because Mr Hodge lost out, Mr McGill was replaced. That is another example of this Government's pay-back mentality.

Hon. P. G. Pendal: To it, autonomy for local government is dead.

Hon. P. H. WELLS: That is right. That is why local government is very concerned about the actions of this Government. The Government should abandon the actions it has taken in a number of areas.

Firstly, the Government should cease its confrontationist policy towards not only the City of Stirling, but also other local government authorities that do not knuckle down to what the Government wants them to do. People involved in local government give up their time with no recompense for the time they spend representing people at the grassroots level. It does not behove Ministers like Mr Pearce to attack local government, particularly in the way he has attacked the City of Stirling.

Secondly, the Government should abandon its desire to take retrospective action against any developer who has already had planning approval under the requirements of existing laws and regulations and who has already made substantial investments based on those laws and regulations. Because of the damage to local government throughout the State because of this action, the Government at the very least needs to give local government some assurance that its action was wrong and that it will not interfere with the autonomy of local government in Western Australia and that it will not repeat these types of actions. Certainly the Government should not persist in seeking ways to enforce the removal of the delegation of powers authority. It would appear, from legal opinion given yesterday, that the council may not have lost that power. I gather that the

Government, probably through the Crown Law Department, is now seeking ways to get around that decision.

The Government should inquire into the breaking of the oath, as shown in the statement by the Minister that the City of Stirling and the Government were now one-all.

Most importantly, the Government should restore people's confidence in the City of Stirling. Small home developers who may have wanted to develop now have to overcome the hurdles of meeting certain planning requirements and delays. This Government stands condemned for its involvement in this action.

HON. GRAHAM EDWARDS (North Metropolitan) [11.56 a.m.]: At the outset I point out that Mr Wells and the City of Stirling consistently demonstrate that they have no concern for the people of Scarborough. The Australian Labor Party has always been in favour of the Chinese restaurant proposal; equally, it has always been opposed to high-rise development at Scarborough. There has been absolutely no change to our policy. The change that we have seen has been at the City of Stirling. The change that came about as a result of the change in numbers was one that went in pursuit of political goals. Those goals have well and truly overridden consideration for the well-being of the residents and ratepayers of the City of Stirling. Some of the things that have gone on there over the last couple of years have been quite disgusting.

Hon. P. G. Pendal: Including the Chinese restaurant.

Hon. GRAHAM EDWARDS: Mr Wells put forward this motion, spoke to it, and came up with absolutely no evidence to support what is written in his motion. That makes me think that once again it is a political exercise. It is the use of this Chamber for politics. It is a pity that we have had to defer discussion on that most important Order of the Day No. 1, the Adoption of Children Amendment Bill. That has again been deferred because of the pursuit of politics.

It is interesting that, when members opposite talk about confrontation, they do not consider the makeup of the City of Stirling. I am not aware of any confrontation that has been sought by the Government. We, the local members, have never sought anything more than to work to the best benefit of the people of the City of Stirling. It is a pity that the councillors have not adopted the same approach to us. When we consider the political persuasions of councillors of the City of Stirling, we find that many are Liberal Party supporters. Crs Anderson and Spagnolo, both representing one ward, are members of the Liberal Party. Crs Hancock and Strickland can likewise be so identified. Cr Hancock was a former candidate for the Liberal Party for the Federal seat of Stirling. Cr Strickland, we have been advised, is running the State campaign for Cr Grierson, who is a councillor for Scarborough and just happens to be the Liberal endorsed candidate for Scarborough. Cr Camillieri, a former mayor, is also a member of the Liberal Party. Those are just a handful of names; they happen also to be a handful of Liberal members.

Mr Wells should not tell me that these people have not sought political confrontation with this Government. They have done so quite openly and blatantly at the direction of the Leader of the Opposition and the member for Mt Lawley, Cr Cash, who also sits on the City of Stirling.

[Resolved: That business be continued.]

Hon. GRAHAM EDWARDS: Referring to the time when I was a councillor, when votes were taken on issues the councillors worked out for themselves how they wanted to respond to those issues. I can think of a number of occasions on which I voted with different groups on different issues; and when the member for Scarborough, Mr Burkett, was Mayor of the City of Stirling his voting pattern was such that nobody ever knew which way he would vote. He responded to issues in accordance with his own conscience and dealt with each matter individually. It is interesting to note that since he retired as mayor, the mayors who have succeeded him have voted *en bloc* with the ruling faction on the council of the City of Stirling. It is the lack of leadership and courage of these mayors that obviously has led to the massive problems at the City of Stirling.

The ratepayers woke up to the problems early in the piece, and so too did the staff members. It has had a very bad effect on the City of Stirling and a number of senior staff have resigned from the local authority. Many of those who resigned demonstrated a high level of skill and enthusiasm and adopted a professional approach to their jobs. However, their enthusiasm waned and they left because they could not handle the political pressures being applied by many councillors who were part of the ruling faction at the City of Stirling.

In the three years that I was a councillor I was never once involved in directing, or attempting to direct, any staff member on how he should carry out his job. A number of professional people employed at the City of Stirling could not handle the changes that took place after the Liberal Party gained power on that council. Those employees left the City of Stirling and went to work for other local authorities in the State. That has been a great loss to the council.

The most recent and significant loss is that of the Town Clerk, Mr Malcolm Sargant, who had given the City of Stirling many years of dedicated service. I believe that he was unable to continue in that position because of the pressures that were applied which forced him to resign as a matter of principle.

Mr Wells has moved the motion in this House today without producing one scrap of evidence to support it. As far as I am concerned it is a political exercise and an attempt to prop up the City of Stirling. It is a further attack on the Government and the independent body of the MRPA. We heard Mr Wells talk of one member's reaction to a decision made by the MRPA but he did not dwell on the decision made by the other 12 members of the MRPA who supported the action. I hope that Mr Wells will not try to tell us that the Minister politically directed those 12 members to reach that decision. If he attempted to do so, he would be casting aspersions on the credibility of those 12 members and I do not think he should be allowed to get away with those sorts of accusations.

Referring to the Spindrifter development, which brought this whole matter about, from the information I have been able to ascertain it seems that the City of Stirling has been acting outside its established planning procedures. When that proposal was before the council I recall that nine councillors voted in favour of the development and four opposed it. When approval was granted, 22 conditions were imposed, the second of which was that the four certificates of title must be amalgamated prior to the issue of the building licence. A further note was included at the end of the 22 conditions emphasising that the amalgamation must be effected prior to the issue of the building licence. We now know that the building licence was issued before the amalgamation of the certificates of title. That is clear evidence that not all of the 22 conditions were complied with. It is no wonder that the MRPA is investigating the whole question of high-rise developments in the Scarborough locality with some concern.

It is also interesting to note that the chief planning officer was quoted in the newspaper as deriding the MRPA for giving consent to previous applications for development which, similarly, did not meet the conditions laid down. That is a further indication that the MRPA should be concerned with regard to the planning approach to approvals for developments in the City of Stirling.

Mr Wells referred to town planning delegation of powers of authority so that planning decisions can continue to be made by the City of Stirling's professional planners. I would be quite happy to allow those professional planners to go ahead and plan for the future development of the City of Stirling. However, I am not satisfied with the amount of political interference with which those professional planners must contend. It would be interesting to know how many recommendations put forward by those professional planning officers have been overturned when they reached the council stage. If my memory serves me correctly, those officers gave the go-ahead to the establishment of the Chinese restaurant at Nollamara and that decision was overturned by the non-professional political councillors.

I do not want to delay the House for much longer because I know that we wish to continue with the orders of the day. I brand this motion purely as a political exercise which attempts to prop up the political arm of the Liberal Party in the City of Stirling. It is attempting to create a situation that might help Mrs Grierson in her bid to oust the current member for Scarborough, Mr Burkett. I do not believe that will happen. I think the people of Scarborough will support the action taken by the MRPA on this most crucial issue.

I oppose the motion and indicate my abhorrence for the House being used in this way.

Debate adjourned, on motion by Hon. Fred McKenzie.

[Resolved: That business be continued.]

ECONOMIC STRATEGY

Federal Government: Motion

HON. G. C. MacKINNON (South-West) [12.10 p.m.]: On behalf of Hon. Neil Oliver, I move—

> That this House calls upon the Government to withdraw its support for the economic strategy of the Federal Government

which has imposed on all Australians the adverse effects of a substantial devaluation of the dollar; a massive increase in external debt; and record interest rates.

In so doing, this House calls upon the Government to:

(i) support deregulation of the labour market to enable the private sector to improve its competitive standing;

(ii) implement policies to restrict the abuse of union power which has led to the reputation of an unreliable and costly supplier; and

(iii) to reduce the cost burden of the Government, both State and Federal, on the population as a whole and on employers in particular, thereby reversing the trend of Labor Governments to over-tax, over-spend and over-borrow.

There is no doubt that in the electorate at large the matters touched by Hon. Neil Oliver are exercising the minds of everyone. Strangely enough, the group most markedly affected are the people who are expected to pay their bills in order to cope with the present situation; the people who have mortgages and young children to look after, and who are trying to meet all their commitments. We spend a lot of time worrying about the very poor, but of course the very poor are frequently assisted in innumerable ways. Perhaps we should spend more time thinking about the rich, but in this context the rich usually manage.

The bulk of middle Australians are the people affected. I for one am delighted that Hon. Neil Oliver has brought this motion forward, and I hope that now he will explain it in greater detail than I am able to do at this short notice. He can enlarge on the ramifications faced by the general community with regard to these problems.

Hon. Peter Dowding: Well said!

HON. NEIL OLIVER (West) [12.14 p.m.]: I took great interest in the opening comments of Hon. Graham MacKinnon. His worry and concern are being expressed throughout our community that our present predicament is due to the almost listless leadership which is coming from Governments, specifically the Federal Government. There is no doubt that the high cost of the prices and incomes accord has been brought home to the Australian community in a very dramatic fashion over the past week.

The Australian dollar basket of currency now stands at 60.3c against the US dollar, the lowest on record. Australia now has the highest real interest rates for almost the last 100 years. The Australian inflation rate is almost double that of our major trading partners, and almost treble that of Japan, our best customer. Australia's gross overseas debt now stands at $68.5 billion, or 33 per cent of the gross domestic product. To put it in another way, that represents $4 400 for every man, woman, and child in this country.

These disturbing economic facts are in no small measure due to the legacy of the prices and incomes accord between the Hawke Government and the ACTU, which, of course, leads to that great statement of consensus which really is, in the view of the Labor Party, some new arrangement where socialism goes hand in hand with free enterprise.

It was interesting to hear a comment the other day by Alan Jones, a leading commentator on 2UE in Sydney, broadcast over some 78 network stations. He said that if Bob Hawke were still the President of the ACTU, he could still be running Australia.

It is time this absurd myth of the accord was debunked. It is time the real costs of this cosy arrangement between the Government and the ACTU were better understood in the community. That is the reason for bringing this motion forward.

Despite the constant claims of the Prime Minister and the Federal Treasurer that the accord has delivered a land of milk and honey, the reality is that the accord has locked Australia into an uncompetitive and unproductive place in the world economy. If members doubt my words, any member who cares can examine the relevant information.

May I suggest to members that they look at what has happened to the Australian dollar in recent weeks. They should ask themselves why it is that despite that big fall in the US dollar, our currency has continued to slide against virtually every major currency in the world. Against one of our major partners, the US, the slide is in the vicinity of eight per cent. Against the Japanese yen it is in the vicinity of 15 per cent. It has fallen quite dramatically over the previous week.

International finance markets clearly lack confidence in the medium-term future of the Australian economy. In particular, these markets have given a thumbs down to the recent national wage case decision. They are totally unconvinced that the Federal Government has properly come to grips with the devaluation of the Australian dollar earlier this year. Regrettably their judgment is correct.

The much lauded renegotiation of what is called the accord mark II two months ago did not adequately respond to the inflationary challenge imposed by the 20 per cent devaluation earlier this year. Ever since that devaluation, a clear and unambiguous discounting of wage rises for the declining prices effect has been imperative, yet the Federal Government has continued to squib the challenge.

The deal done two months ago involving, among other things, the conceding of a productivity claim of three per cent even before the claim had been presented to the commission, may have persuaded some newspaper commentators and even some businessmen in Australia. However, it has clearly not convinced world financial markets. Nor indeed were those markets convinced by the Federal Treasurer's recent trip to New York and London, a subject to which I will return later.

On Wednesday, in addressing the Federal Parliament, Prime Minister Hawke stressed that in the current economic circumstances he did not see the need to renegotiate the prices and incomes accord with the ACTU, although not resiling from his comment on Monday that the accord would be renegotiated if the Government thought it necessary. That was only on Monday. I am now referring to his comments made on Wednesday when Mr Hawke told the Federal Parliament that the settings of the Government's policies were appropriate as they stood. That was a complete about-face in 48 hours.

He put these settings as a progressively less stimulatory fiscal policy, an export-orientated industry policy, and a firm monetary policy, all based on the accord mark II. I quote him as follows—

> But it is the judgment of the Government that that situation is not one which operates at present.

Clearly Mr Hawke sees moving on the accord as the final option if the dollar does not move and the economy appears locked into high interest rates.

This recent national wage case, which I call the accord mark II—this new agreement between the Government and the ACTU—was arrived at with no-one else being included in the discussions. Of course, the two parties get on particularly well together, with Prime Minister Hawke having once been the President of the ACTU and only recently being the immediate past president. He and the new president, Mr Simon Crean, must get on very well together; they must have some extremely pleasant entertainment at The Lodge at the expense of the Australian taxpayer.

This agreement undermines the authority and the independence of the Australian Conciliation and Arbitration Commission, which the Minister for Employment and Training states is the place in which all these matters should be discussed. The Minister in this House, unlike Prime Minister Hawke and Mr Crean, does not wish to intervene; he believes these matters should be settled in the commission. A different arrangement operates in the Federal scene.

A deal was done outside the commission. On top of that, the deal was done without the involvement of the employers. It was to be accepted by the commission, which we know is what occurred. Employers must seriously question the commission's relevance. What is the purpose of industrial relations legislation in this country if this is to be the way the deals are done?

We know already that the State Government is against any gradual deregulation, or any move to some alternative, or to some examination of alternatives to the current industrial arbitration system. Yet in this instance a deal was done between the Prime Minister of Australia and the President of the ACTU, and that deal excluded the arbitration commission and the employers. It appears that the arbitration commission is to be merely a rubber stamp for private arrangements made between the Federal Government and the trade union movement.

The employers put their case to the commission for the national wage increase because they knew Australia could not afford it. Many of the benefits arising from the devaluation of the Australian dollar will be squandered if, at the very least, discounting is not applied in the future. Better still, there should be no wage increase at all when we come to the next round of discussions.

As a member of Parliament, I will be watching with great interest what occurs. I will be watching the impact of the commission's decision on the Australian dollar, which has already declined in value owing to the current 3.8 per cent decision. I will be watching with great interest the wage increases that now will fuel inflation and the further downward pressure on the Australian dollar over the next few months.

The brutal reality of a floating exchange rate must ultimately force the Government to face the folly of the prices and incomes accord, yet Prime Minister Hawke in his statement to the Federal Parliament on Wednesday appears to put that matter in his order of priorities more as a lender of last resort.

Treasurer Keating must learn that foreign exchange markets need more than hype and cheap abuse of one's critics before they buy Australian dollars. Foreign exchange dealers operating in countries with inflation rates of four per cent or less will hardly be impressed by a Federal Treasurer who tells them that all is well when inflation in Australia is double their own level. Unfortunately, further falls in the Australian dollar will put more pressures on interest rates. These pressures on interest rates will not go away.

This is causing the Government great concern as we face an election. Not only has the Federal Government's failure to move to tackle the ACTU and the devaluation issue contributed to our present dilemma, but it could also mean that the benefit of this year's devaluation will slip through our grasp.

Our balance of payments deficit problem is continuing to get worse despite record high levels of interest rates and the largest depression in 30 years. The trade deficit for the September quarter was 30 per cent higher than last year, and the balance of payments deficit for the September quarter was 20 per cent higher than last year. The October balance of accounts totalled $1 641 million, an all-time record. Nothing short of a major credit squeeze will plug Australia's $15 billion annual current account deficit and head off a $100 million foreign debt.

Sitting suspended from 12.30 to 1.37 p.m.

Hon. NEIL OLIVER: Before the luncheon suspension I was talking about the record total of October balance of accounts of $1 641 million. I went on to say that this tremendous record in the Australian current account will plug Australia's $15 billion annual current account deficit and will head off a $100 billion foreign debt. October's current account deficit which I have just mentioned is staggering proof that the Government's economic growth strategy has failed. Wages must be frozen and our monetary policy aimed at recession. Federal Treasurer Keating is wedded to a growth strategy and has discounted expert opinion that the expansion cannot endure while the balance of payments is in collapse. What an incredible situation!

The Federal situation is wrong. Exports have gone sour, farming and mining incomes run the jeopardy of low prices abroad, and industry faces soaring costs. I have spoken about that matter before and have mentioned how industry is sandwiched between a high cost of production and a low off-shore income return. These sectors account, incidentally, for about 80 per cent of our export income; I understand now the mining sector accounts for in the vicinity of 43 per cent and the farming sector 40 per cent, so they are certainly the greatest part of the export income.

Those two industries play a large part in our ability to service the foreign debt because they provide our foreign earnings. The prospects for these industries are not good.

Imports of goods and services are roaring ahead as the ill-conceived economic growth strategy underpins the inflow. Interest on our huge debt has already grieved us and threatens to tip us into chaos. We now owe about $73 billion abroad, and we will hit the $100 billion mark soon. A stream of October-sized "shocker" increases like the last lot will have us in the third world debt class, and I will speak about that matter in a few minutes.

Hon. Garry Kelly interjected.

Hon. NEIL OLIVER: I do not know what the honourable member is saying, but he would not have a clue about the internal costs in Australia, what the interest rates are, and how they are affecting the small firms and the farmers in this country. If he wants to interject on me, having listened to members here talk about the state of the farming industry and small business, he can get up later and say his piece, okay? I am only quoting figures from the Australian Bureau of Statistics and I am drawing them to the attention of the House. The member can get up later and make his speech. Interjections are disorderly in this House. If the honourable member wants to make a speech, he can do so later.

Hon. Garry Kelly: You just said Australian prices should be frozen. How would you do that?

Hon. NEIL OLIVER: Australian costs are too high, working hours are too short, and productivity is too low. Our entire society is beset with union dictated rigidities. We are trying to lope our way through a 36-hour week in a 48-hour world.

At the moment we have a situation where the Builders Labourers Federation is almost holding to ransom the building sites in Western Australia, and in Perth particularly, for a 35-hour week. In fact, if their demands are not met they are saying that if any job is declared black by them they will not go back on the job unless it is a 35-hour week job.

An article in yesterday's *The Australian* is very interesting. It says that Premier Cain is not taking the same attitude to the BLF as is Premier Burke, or indeed the Minister for Employment and Training. Mr President, I am sorry that matter is on the Notice Paper. I was referring to what Premier Cain was saying in Victoria. I should not have referred to a Bill that is already on the Notice Paper.

I will be very interested, as we are entering the twilight of this session, to see whether that very important Bill slips off the Notice Paper and is not attended to.

The Government's tax package, which we have all seen—and I know even you, Mr President, have expressed your concern about this tax package—

Withdrawal of Remark

The PRESIDENT: Order! That remark is absolutely out of order. I want the honourable member to withdraw any suggestion that the President of this House has made any comment about any of these matters.

Hon. NEIL OLIVER: My apologies, Mr President. I withdraw the remark.

Debate (on motion) Resumed

Hon. NEIL OLIVER: Concern has been expressed across the whole spectrum of the community about the Government's tax package. It will also decrease our competitive disadvantage. The jack booted crackdown on fringe benefits will result in an increase in business costs, with quite legitimate business expenses which are allowable elsewhere throughout the world not being allowed in Australia. Fringe benefits are not now tax deductible. This will have an adverse effect on business profitability. What sort of tax package is this? It is supposed to bring great prosperity to this country.

Just to help family businesses, and farmers and anybody else in a company situation along—we are trying to get the economy going, according to Prime Minister Hawke—the Federal Government has decided to increase company tax in this package. So the company tax rate is to be 49 per cent at a time when our trading partners are reducing their already much lower company tax rates. It will have an adverse effect on the balance of payments, as will the proposed foreign tax credit system. The large external account deficits this time last year were a major reason for the Australian dollar depreciating by more than 20 per cent. The market's attention was drawn to the state of the economy by matters such as the Prime Minister's MX fiasco and the Public Service strike.

Unless there is a significant turnaround in the balance of payments, there will be further downward pressure on the dollar and another fall in the standard of living. It is called "going down the chute". Australia's inflation level, as measured by the CPI which the Government talks so often about, is now almost double that of our major trading partners, and increasing. It is three times that of Japan, one of our most important trading partners. If the current weakness of the dollar persists, we will be heading for an inflation rate of eight per cent in 1986. Estimates of the effect of the devaluation vary, but a likely figure is that the devaluation has added 1.5 percentage points to the current rate of 7.6 per cent. I do not believe all the effects have flowed on yet. The inflation rate for the current financial year will be considerably higher, and no doubt that is the reason the Minister for Budget Management has lifted his projections from the 6.9 per cent in the Treasurer's speech to 8.9 per cent, when the Federal Government is suggesting a figure of only 8.6 per cent.

It appears the Minister for Budget Management has a lot more wisdom than Treasurer Keating. At least he has an extra 0.4 per cent up his sleeve. The only thing I do not like is his patting himself on the back for doing it.

If these estimates are correct, and there must have been an increase in the underlying rate of inflation from five per cent in March to about six per cent after removing the effect of devaluation, it is not consistent with the Treasurer's claim that we are experiencing a temporary increase in the inflation level due to devaluation. What a lot of rot! This time last year the Feder-

al Government tried to buy low interest rates for the unnecessary Federal election which it called. We are now paying the price for its irresponsibility in allowing the money supply to blow out. We are seeing a lower dollar, higher interest rates, and an unacceptably high level of monetary growth. The money supply figures—and I will be watching with great interest for the latest figures which are probably due next week—show that the situation is getting worse, not better.

The most worrying aspect this year was the continued high money growth caused by high levels of borrowing despite record levels of interest rates. They bode ill for interest rates in the future, and for Premier Burke who said, on being elected to office, that he would bring interest rates down. Australia has the highest real interest rates for almost 100 years.

Yesterday the Commonwealth Bank matched the interest rate increase set by Westpac and the ANZ on Tuesday when it lifted its prime rate for triple-A borrowers to 19.25 per cent. That is the rate before one adds on the extra charges. I have been looking at some of the Commonwealth Bank's forecasts. I know this bank is very dear to members opposite, who believe it should not be subject to any form of privatisation because it has performed so well. I would like to give a resume of what the Commonwealth Bank thinks will occur. It considers that in the 1985-86 financial year, inflation will accelerate in the first two or three quarters as the direct effects of the depreciation of the currency continue to work their way through to prices at the retail level. It goes on to say that by early to mid-1986 the bulk of the depreciation-induced boost to inflation is expected to have occurred, and trends in wages' growth and demand pressures will become the primary factor in influencing inflation in 1986-87.

There will be another consensus arrangement. Mr Hawke will have a chat with ACTU President Crean, and they will do a little separate deal which will have nothing whatsoever to do with the Conciliation and Arbitration Commission or the employers. The Consumer Price Index forecast is that costs will rise by 8.5 per cent over the year ending 30 June 1986. This now appears to be a conservative forecast, and obviously the Minister for Budget Management, in setting the Budget at 8.9 per cent, has done very well. However, I suggest that he should remove his hands from behind his back and not applaud himself for the Budget Estimates, because that is what the rise will be. With inflation expected to remain subdued in the major world economies in 1986-87, Australia's inflation rate will put it out of line with all international trends.

The accord requires that the Hawke Government maintain a high interest rate strategy. Unless interest rates remain high and monetary policies firm, additional pressures will be placed on the Australian dollar. Any further significant falls in the value of the dollar will require yet another renegotiation of the accord. I have already told honourable members that Mr Hawke had one story last Monday and yet another story last Wednesday, so the country is in for a very interesting time. I have already quoted Prime Minister Hawke's statement and I will not repeat it because it is in the *Hansard* record for everyone to read.

If the Prime Minister of Australia had stayed the President of the Australian Council of Trade Unions, he would still be running Australia, but rather than take on the ACTU the Hawke Government has now opted to maintain a high interest rate policy which is very much to the disadvantage of the current Labor Government. I do not know what Mr Burke will do about it, but if he supports this motion he will put the message across to the Prime Minister of how strongly he feels about this matter. If the Government publicly supports this motion, it will be an indication from this Parliament that members here are not happy with the way Mr Hawke is running the country. Unless interest rates remain firm and monetary policy remains firm, additional downward pressures will be placed on the Australian dollar again. Any significant falls in the value of the dollar will require yet another renegotiation.

Mr Hawke has opted to maintain a high interest rate policy under the influence of the ACTU. That is very sad for this State Government, which consequently will do everything it can to play down this state of affairs. I feel that this State and its representatives should be making their presence felt in Canberra. As the dollar continues to weaken, the Government will push interest rates higher. This pressure-cooker effect is at work out in the housing interest area, and we have seen the efforts by the State Government in what are called "marginal electorates" to try to cushion the effect; but it is only a one-off situation. I have asked, "When will you go again?", and I have been told that the Government will examine the proposal. I do not know how we can come up with another $70 million when the Parlia-

ment is in recess. I know that the Cabinet was not consulted on these matters, so I suppose Premier Burke will do his own thing. The Government interest rate ceiling has adversely pushed poorer high-risk borrowers into high interest rate borrowing. It is unfortunate that the very people whom the Labor Government set out to help will suffer from this very policy.

In addition, the Government is helping the people who have already bought their own homes and have made commitments, while making it more difficult for those who want to buy their own homes. These developments occurred less than 12 months after the Prime Minister and Treasurer Keating promised that in 1985 interest rates would fall. We are moving towards the end of November and yet interest rates are running at a near-record level—a 100-year high. The Federal Minister for Housing and Construction, Mr West, is still promising lower interest rates, which I find incredible.

The average housing finance available from institutions subject to interest rate controls—for example, savings banks and building societies—is drying up. It is being replaced by more expensive sources of finance such as trading banks and other lenders. The finance houses are starting to catch up, and subsequently there will be many increases in second mortgages. I suppose in this regard the Government will be a little happier as it will have more stamp duty revenue because it will be stamping the first mortgages and it will be stamping the second mortgages, and it will get two lots of stamp duty.

Lending by savings banks in August subject to Government interest rate ceilings fell by 2.4 per cent compared with July. Within the coming week figures for the last quarter will possibly become available. Lending by building societies subject to State Government interest rate ceilings overall in some States—but not in this State, although the Government has tried to cushion the effect—fell nationally by 15.3 per cent in August. I will be interested to see the October statistics from the permanent building societies when they become available for Western Australia.

The institutions subject to interest rate controls are obviously rationing their loans at concession rates, and forcing potential borrowers to top-up their loans from a more expensive source. This is known as a "cocktail". It means that the average home loan borrower chooses well over the ceiling rate. One goes into the bank manager's office and asks for a $50 000 loan and he says, "Sorry, I can give you $35 000 but you know we offer a range of 98 services." He then opens the bottom drawer of his desk and he pulls out some of these available services and he offers the customer the affiliated finance company's application form. This example of a housing loan cocktail demonstrates that low-income earners are being forced out of the home buyers' market.

A person borrowing $50 000 from a bank in March 1985 would, over 25 years at 11.5 per cent interest, be paying out $508 a month. Today, with interest rates having risen to 13.5 per cent, that home buyer will be paying approximately $583 a month in repayments. In other words, he will be paying $75 a month more, which is a fairly large slice from an average family's budget. However, someone wishing to borrow $50 000 from a savings bank might be offered only $35 000 at home loan rates, topped up with $20 000 at a trading bank rate of 19.5 per cent over 10 years, which is the current rate for prime borrowers. This person would have to pay well in excess of $704 a month—and incidentally would be paying in excess of $200 a month, or 44 per cent, more than the person who took out a loan in March 1985. The average interest rate of this cocktail loan would be about 17 per cent now, in view of this new prime rate, and would be well above the 13.5 per cent ceiling.

The effects of the Government's high interest rate ceiling policy on mortgages may not yet be obvious to people with existing mortgages, particularly in Western Australia, due to the comparatively recent practice of financial institutions of not changing repayment amounts as interest rates change and varying the period of the loan instead. Many people will receive a shock when they receive their mortgage statement at the end of this financial year—that is, 30 June 1986—and learn that they owe more than they did at the beginning of the year, despite paying thousands of dollars during the year. This will occur due to recent large increases in interest rates, and repayments will not even cover interest on the loans, let alone any capital repayments. The balance will be added to the outstanding loan. This is yet another consequence of the Hawke Government's high interest policy which has been made necessary by the accords—accord mark I and accord mark II.

Most of these economic problems can be traced both directly and indirectly to the Australian Labor Party-ACTU accord. The national wage case decision last month is the

most recent and most obvious case. The decision to grant an across-the-board 3.8 per cent increase irrespective of the capacity of individual industries and enterprises to pay underlines what is wrong with Australia's rigid centralised wage-fixing system.

In order to appease Mr Crean, the Hawke Government supported a 3.8 per cent wage increase which will have to be borne by all Australian employers whatever their financial status. It is not credible to maintain that all Australian employers are in a position to pay a 3.8 per cent wage increase. When I was listening to the debate about farmers the other evening, I certainly could not anticipate that they would absorb that sort of increase. For example, the commission has accepted the Bureau of Agricultural Economics estimate that the net value of rural production will fall by over 20 per cent in 1985-86. However, that has no effect on the accord!

There is no doubt that even Mr Keating would agree that the effect of the devaluation on the Consumer Price Index should be discounted if the potential competitive benefits from the devaluation are to be maintained. That has not happened in this decision. The Treasurer tries to rationalise his being rolled by Mr Crean and the ACTU by saying that the ACTU will let the Government achieve a two per cent discount for the effects of the depreciation next time, irrespective of whether the actual effect is higher. One thing we know for certain is that the depreciation effect is unlikely to be less than two per cent. However, to achieve that face-saving solution, the Federal Government has had to concede a three per cent productivity claim for next March despite the fact that it is yet to be proved that there has been any increase in productivity. That national wage case decision symbolises so much of what is wrong with the Government's economic policies.

Wages are not being discounted to take account of the effect of the devaluation. Therefore, we are not retaining the potential competitive advantage from the depreciation that Mr Keating tells us we will get. This, in turn, means that the depreciation is not acting to correct the balance of payments problem which is actually getting worse.

All of these factors are putting further downward pressure on the Australian dollar, which in turn is driving up interest rates because the Government has chosen this policy to support the dollar in order to avoid the necessity of renegotiating the accord with the ACTU. No wonder Australia's international credit rating has slipped in the past couple of years and the Federal Treasurer had to arrange, at very short notice, to make a special speech in New York and London to try to talk up the dollar. While he was there it was dropping even more. How unsuccessful that trip was is indicated by the fall in the dollar following his visit.

The constant assertions by the Federal Treasurer and the Prime Minister that the prices and incomes accord has produced boundless economic benefits for Australia were put in perspective by a recent survey in the prestigious *International Investor* magazine which has shown that our credit rating has fallen significantly since the Hawke Government came to office. The survey showed that Australia's credit worthiness had slipped by 1.8 points to 82.1 points in the half year to September, the ninth largest fall of all. The credit rating has fallen by 2.1 per cent over the past year, and 5.6 per cent since the Hawke Government was elected in 1983, in contrast to an increase of 0.4 per cent in the average rating for all countries in the past year.

Often we read in the newspapers what the Organisation for Economic Co-operation and Development is saying about Australia—that we are on target and how well Australia is doing. I decided to inquire into the OECD. The Press seems to print its reports regularly as though it is a very reputable organisation to judge Australia's economy. Not one Australian is employed by the OECD, and it does not even have an office or representative in Australia.

Hon. D. J. Wordsworth: The report is written by the Government

Hon. NEIL OLIVER: Bob Hawke writes it and sends it off to the OECD. What a wonderful way to do things. What Bob Hawke says is, "Okay, we are on target, we are doing so well; let us send this stuff off to the OECD." It receives the information, analyses it, and sends it back saying, "By golly, Australia is doing well." Honestly, if Goebbels were alive today, members can imagine the enormous opportunities he would have.

Obviously the international community is expressing its concern at economic factors such as Australia's decline in international competitiveness, rapidly increasing overseas debt, large budgeted deficits, large wage and cost increases, and inflexible labour markets, all made worse by the ALP-ACTU accord.

The Treasurer's trip to give a reassuring speech in New York was the last sign of the panic. He had nothing new to say. What he did say did not convince anyone that our economy was in good shape. The fall in the value of the dollar since his speech says little for the power of his great rhetoric and his grandstanding around the world selling his Budget and selling the accord. The accord, which is supposed to be a consensus, is not consensus. All I can see in the consensus is an idea of where socialism walks hand in hand with private enterprise and where they hop into the same bed. It does not work.

A money market participant attending one of the functions remarked that the Federal Treasurer's speech could be likened to the pilot of a plane making an announcement in the middle of a flight that everything was all right and there was nothing to worry about. That statement would cause people to worry about why he said it and what really was wrong. The Treasurer should have remembered the old saying, "If you have nothing to say, say nothing and keep your mouth shut."

Government members: Hear, hear!

Hon. NEIL OLIVER: Not on a subject such as this. The Government keeps pushing this matter under the carpet.

Hon. J. M. Berinson: It is no good giving others advice that you are not prepared to take yourself, Mr Oliver.

Hon. NEIL OLIVER: Even Senator Evans is catching the same disease with his comment that the share market was over-reacting to the remarks by the Organisation of Petroleum Exporting Countries. It is a case of blame the messenger when things go wrong.

Earlier I briefly mentioned some of the problems in the taxation changes proposed by the Government, and especially how they related to the business community. I now propose to look at the so-called tax package. The first thing to realise is that the proposed changes are anything but a package. They are the remnants of Mr Keating's option C.

The PRESIDENT: Order! Hon. Tom Knight knows that he is breaking a rule of this Chamber. Any endeavour to talk over the bar of this Chamber is not only rude but out of order.

Hon. NEIL OLIVER: They are the remnants of Mr Keating's option C after the various factions of the ALP and the ACTU had vetoed most of it, supplemented by other hastily-worked out measures and fully endorsed by the Premier of Western Australia, Mr Brian Burke. In fact he went out of his way, prior to the summit, to sell the option. The only matter on which he decided that he was on the wrong foot was the gold tax. In fact, the tax changes were put together so quickly that the Government has not yet been able to clarify how many aspects of it, including elements of a capital gains tax—which has been operative, by the way, since 19 September—will actually work in practice. The Treasurer has been promising a clarifying statement for weeks to clear up the large element of uncertainty surrounding the detailed operations of the capital gains tax. Yesterday's newspaper reported that Government officials had promised that some of the problem areas would be cleaned up this week. This is at least the fourth time the statement has been made over the last few weeks. If it is said often enough, they will eventually get it right.

There is uncertainty about the effects of the capital gains tax on bonus and rights shares. Companies undertaking bonus or rights share issues do not know where they stand in regard to capital gains tax. That does not appear to concern the Burswood Island Trust because it appears to know all about it. I must admit that its rights issues, which are sitting at 1c, are not what one would call setting the market on fire. This has caused a great deal of uncertainty and confusion on the stock market, and even the Treasury has admitted that equity markets were not fully informed. A spokesman from the Treasury was recorded in early October as saying that the Government was—

> . . . certainly very aware it is awkward for markets and shareholders living in this hiatus period . . .
>
> We are all very conscious that during the short period before a further announcement market trading has been conducted in a way that is not totally satisfactory.

In other words, the tax was in full operation even though further announcements were pending. What a wonderful situation to be in! How can one run businesses under those circumstances? It appears that only some of the outstanding problems will be resolved in the statement. As yet, I have not seen them. It has been reported that other outstanding issues such as the treatment of the foreign exchange transactions and the position of non-residents will not be clarified for some time.

The problem is that Labor Governments do not think things through. On any analysis, this is a totally unsatisfactory way to introduce key legislative changes, and that sort of thing is going on in this House. We rush in where angels fear to tread. The attitude appears to be to get the Bill out of the way as soon as possible, but it does not matter whether this House is still sitting at 4.00 a.m. or 6.00 a.m. What sort of example is it to the public of Western Australia for members in this House to be sitting here at 4.00 a.m. discussing serious legislation which this Government should have brought to this House well before now? The Government should have allowed time for sufficient public comment. All this is, is a lawmaker's club in an ivory tower on top of a hill, and we are only the residents. We represent the people and we are interested in their comments. The way in which this Government introduces its legislation, we are not given a chance to obtain public comment.

In the tax package of 19 September, the Government admitted that some fine detail remained to be settled, but in spite of this the tax is operative. The Government has decided to crash through on tax and in doing so is violating the rights of individual Australians who are entitled to know the details of the tax package which has applied since 19 September 1985.

The fringe benefit tax is against all principles because it is levelled at the employer. In fact, it is a *de facto* payroll tax. It will have anti-employment consequences. Combined with the projected increase in the corporate tax rate, which is now 49c in the dollar—it is called an incentive to businesses and to family firms—yet it will result in many corporations effectively paying tax at a rate of over 50 per cent. This contrasts both sharply and unfavourably with corporate tax rates in many industrialised countries. I might add that in other industrialised countries the taxes are nowhere near our company tax scales, and in many cases they are actually reducing them.

It is totally wrong and discriminatory of the Federal Treasurer to argue that entertainment is never legitimately involved in earning accessible income. What a lot of nonsense! Even the Western Australian Premier, Mr Burke, has recognised that in certain circumstances entertainment may be a legitimate business expense. He is what is called a real politician because he sits on the fence, keeps both ears to the ground and does nothing. For a man who spends the Western Australian taxpayer's money in the way he does, it is no wonder that he believes there should be a little bit of licence in entertainment expenses.

Hon. P. G. Pendal: There has been a 52 per cent increase in State taxes.

Hon. NEIL OLIVER: Yes, there has been a 52 per cent increase in State taxes and the Premier tells us that we are not paying any more tax. We are told that there have been no increases in tax and everyone is receiving letters advising them that taxes have not increased. In actual fact, there has been a 51.7 per cent increase—it just does not add up.

Several members interjected.

The PRESIDENT: Order! I ask honourable members to cease their interjections when they can see that the honourable member is endeavouring to wind up his comments.

Hon. NEIL OLIVER: Thank you, Mr President.

The principle should surely be that expenditure on entertainment is properly and fairly incurred as part of earning business income. It should be allowed as a reduction. There is no excuse to arbitrarily disallow one category of expenditure simply on the ground that it is too hard for the Australian Taxation Office to separate the legimate from the illegitimate expenses. The abuses in the system should be eliminated and the coalition supports all reasonable efforts to achieve this goal. However, achieving this goal need not and must not involve a total ban on claiming entertainment expenses.

Not only has the Federal Treasurer hit very hard at small businesses in the restaurant industry which employs thousands of Australians—we are now approaching the America's Cup and the Australian 12-metre series—but the Government is also hopping into the restaurant industry. In the process, the Treasurer has delighted in directing cheap abuse and moralistic sermonising at the victims of his attack. At a time when the Government should be encouraging the development of small family businesses, the Federal Treasurer has launched into a campaign of personal vilification against the restaurant industry. Not only is Mr Keating's attack uncalled for, it is also unwarranted.

I hope that this House will pass this motion unanimously because the irony of the Government's approach to entertainment expenses is that, while Australian companies operating both in Australia and overseas will be denied a deduction for legitimate expenses, companies

based overseas, even if they are operating in Australia, will be able to claim a deduction under the home tax system. This will also effectively apply to foreign-owned companies which are based in Australia, but later remit profits overseas which are recalculated using the home country's tax rules.

We are yet to learn what the treatment of the Government's trade commissioners' entertainment expenses will be. However, even if they are taxed, it will only be a case of the right hand paying the left hand. It is clear that such an approach, especially overseas, will do long-term damage to our competitiveness and will worsen our balance of payment problems.

I refer now to foreign influence on the tax package. In the context of his concern about international attitudes to the Australian economy, the Treasurer should recognise the many problems created by his tax package. Many aspects of that package will work to weaken rather than strengthen the Australian dollar. The package will bias overseas investment towards loan investment rather than equity or share investment; generally discourage overseas investment in Australia; discourage Australian companies investing overseas; and, most importantly, through the introduction of a capital gains tax, reduce the future incentive for domestic savings, thus increasing our dependence on overseas borrowings. All of this will weaken our balance of payments and worsen our foreign debt problems which are some of the fundamental worries causing the current low level of the Australian dollar. Mr Keating would do much to support the dollar if he acted to remedy the serious problems associated with his tax package.

I turn now to subparagraph (i) of the motion with respect to the labour market. We must consider alternatives to the present industrial relations system. I put the example of our tourism industry, and refer, in particular, to hotels, motels, and the like that provide accommodation and restaurants that also must open on weekends. In Australia, the position is that the owner—or manager—of a restaurant or hotel, responsible to his principals, is expected to provide services on long weekends. On a long weekend in Perth, one could expect that members of farming communities in outlying districts would come to Perth; presumably, there would also be the normal influx of international visitors.

The owner or manager, one would think, some three months before that long weekend would look around to book entertainment groups so that there could be a floor show on the Saturday evening. He would also, perhaps, plan for an excellent banquet on the Sunday night. That is what happens in hotels overseas. There are beautifully carved iceblocks on the tables, and guests are invited to attend a special function on the Sunday evening. The management overseas would be trying to look at every possible way to capture the market for a long weekend holiday.

This does not happen in Perth. In Perth, the manager gets in touch with the booking clerks and tells them to tell people seeking accommodation or wanting to book a meal at the restaurant that the hotel is booked out. Only buffet meals are served, and there is no such thing as five-star service, or even three-star service. There is no entertainment, no music; it is almost like walking into a mausoleum to walk into some of these hotels. This happens because hotels cannot afford to pay the penalty rates that apply on Saturdays, Sundays, and public holidays.

A simple solution would be to take the average annual wage for people working in the hospitality industry and divide it by the number of working days in a year, approximately 260, and tell people to work the days they are rostered. In other words, if they work for 260 days in a year, whether those days are Saturdays, Sundays, or public holidays, they will still be paid the annual average wage. I think that is a reasonable way to go about varying our industrial relations system.

I know that the Minister for Employment and Training will probably start talking about how there has been a lessening of the incidence of strikes in Western Australia and all that sort of nonsense.

Hon. Fred McKenzie: It is not nonsense; it is fact.

Hon. NEIL OLIVER: I will not delay the House talking about it, but I point out that the facts behind strike statistics are well documented in *The West Australian* of 12 November. In an article headed "Facts behind strike statistics" it is stated—

> Using statistics, it can easily be proved that WA has entered a new era of industrial peace—disputes down more than 60 per cent in a year.

However, it all depends on what basis these statistics are gathered. The types of statistics that the Minister for Employment and Training quotes to this House do not include statistics for strikes during which the worker still gets

paid. That is not the form of statistic he uses. A demarcation dispute is also not classified as a strike for the purposes of his statistics.

In conclusion, I communicate to the House my impression of the attitude of the community. It is a very simple message that I convey to the Government: Businesses must be allowed to operate; produce must be allowed to flow to markets; and, generally, the business community is not interested in the politics of so-called industrial reality, but only in the law of the land. Western Australians are interested in the law of the land and that is all we should have to rely on. We, as lawmakers, are making the laws for the people. All the people should need to do is rely on the law of the land. Those with small family firms or family farms will not tolerate renegade unions which choose to disobey industrial law. They will become increasingly aggressive.

Hon. S. M. Piantadosi: Who are "they"? Name them!

Hon. NEIL OLIVER: Obviously Mr Piantadosi is not reading the newspapers. He had better start getting hold of *The Weekend Australian* and *The Australian* and reading them. He should read what the chairman of the National Farmers Federation, Mr Ian McLachlan has said.

The people of Western Australia have simply had enough of people who will not obey the law. They will not be stood over by union bullies. It must be remembered that the majority of employers are also members of unions. Therefore, they are not anti-union but they are against some of the union leaders. If a period of industrial stability were to result from the implementation of my proposals, so be it. I believe that Western Australians are prepared to face the consequences until sanity prevails in our industrial laws.

Finally, I give as an example the Mudginberri abattoir dispute.

Hon. Peter Dowding: Is this your final, final concluding point?

Hon. NEIL OLIVER: The background is well understood by the Minister and all members here. The owners should pursue their claim for damages to a satisfactory conclusion. Overseas contracts were not fulfilled due to the picketing of Mudginberri. I predict that there will be no backdown from that position. Trade unions must realise that they are not above the law and that if employers are to be penalised for breaking industrial agreements, so too must unions be penalised. Therefore, unions and militant union leaders who are guilty of an abuse of power should be attacked in their hip pocket nerve.

Australia is at the crossroads. Some people have told me that it is not at the crossroads, but on a one-way street to a dead-end alley.

Last Friday night I attended the 75th anniversary function of an organisation of consulting engineers that has been involved with almost every major building that has been constructed in Australia. It has an office in every State of Australia. I was told privately that the assets of consulting engineers were their brains, and they intended to move those assets out of Australia because they believed that Australia was going down that dead-end street. They do not believe that the situation can be reversed and prosperity returned to this country. I cannot accept that because I believe the true Australians will see this through.

Therefore, with much pleasure I commend the motion.

Debate adjourned, on motion by Hon. Fred McKenzie.

Hon. Neil Oliver: Typical, typical—drop it off the Notice Paper if you do not like it.

ADOPTION OF CHILDREN AMENDMENT BILL

In Committee

Resumed from 20 November. The Chairman of Committees (Hon. D. J. Wordsworth) in the Chair; Hon. Peter Dowding (Minister for Employment and Training) in charge of the Bill.

Progress was reported after clause 18 had been agreed to.

Clause 19: Section 21 amended—

Hon. P. G. PENDAL: I apologise to the Minister for Employment and Training for the incident which took place at this point in the debate on Wednesday when I unintentionally misled him. That caused us to go through the procedure for the adjournment of the debate until today.

Hon. P. H. WELLS: I wish to make two points in connection with the recommencement of this debate. Firstly, each member on the Opposition side is allowed to exercise a true conscience vote on this issue, and no member of the Opposition speaks on behalf of other members of the Opposition. Each member acts as an individual, and I believe the Standing Orders protect members who make decisions on that basis.

Secondly, I refer to the delay in debating this matter. It was the Minister's decision to adjourn debate on this Bill. I certainly expected the debate to continue on Wednesday, but he made the decision to delay it and at no stage was the Opposition involved in that decision. The Opposition was prepared to proceed at any time that the Minister was ready.

Clause put and passed.

Clauses 20 to 24 put and passed.

Clause 25: Section 24AA inserted—

Hon. P. H. WELLS: I move an amendment—

Page 17, after line 16—To insert the following—

(iii) that identifying information cannot be supplied under this section if there is any entry in the Adoption Contact Register to the effect that a natural parent of the adopted person does not wish to have contact with the adopted person;

The effect of this amendment will be to ensure that what is perceived to be contained in the legislation is, in fact, provided for in the Bill.

On the extremely rare occasions on which a relinquishing mother may not wish to be contacted by her adopted child, that wish should be respected. Experience in the United Kingdom has indicated that fewer than one per cent of people involved in adoptions seek to make contact. Therefore, we can visualise that the number of relinquishing mothers who are likely to put their names on a negative register will be very small indeed. However small that number is, we must ensure that people are given the protection that the Government has stated is available to them.

From my examination of the Bill, adequate protection is not contained in the provisions. Although provision is made for the relinquishing mother to put her name on a negative contact register, there is nothing that says the counsellor cannot provide the adopted child with information on health matters, for example, that could identify the mother. There is nothing to prevent identifying information from being available to the person making the application; in fact, 90 per cent of the relevant information will be readily available.

It was with some pleasure recently that I received a telephone call from a counsellor involved with the Victorian legislation. Apparently he had read the amendments listed and he has indicated that, from his experience working in the adoption area, they are sensible amendments which take into consideration the need to protect all parties. I was told that the amendments were a responsible approach to this issue.

I have taken the time to talk to a wide range of people on this issue and, in line with the Government's announcement that the Bill contains protection for all parties, I hope that the Government will accept the amendments. The people who register on the negative contact register should be guaranteed protection.

The amendment will ensure that in cases in which the relinquishing mother has registered on the negative register, no identifying information whatsoever can be provided to the person making application. It will probably only arise on rare occasions, but I suggest it is the minimum protection that should be offered.

Hon. PETER DOWDING: The Government opposes this amendment, and I ask members to consider the implications of it very carefully. There are some real problems with the drafting.

The CHAIRMAN: I have looked at the proposed amendments by Hon. P. H. Wells and Hon. Margaret McAleer. I have decided that they do not appear to be in conflict. I can put each portion separately and then finally allow members to decide whether the amendments to the clause are satisfactory. In other words, I propose to put only the first of Mr Wells' amendments. I ask the Minister to confine his debate to that amendment.

Hon. PETER DOWDING: I urge honourable members to listen very carefully to the reasons that Mr Wells' amendment should not be accepted.

Firstly, there are drafting problems. Mr Wells has clearly pulled out of another Act, or number of Acts, a clause which does not relate to our Act. In other words, it presupposes that the word "identifying" is a word that will be understood in the context of this Act and I do not believe it will be. I think it comes from the New Zealand Act, and the word is defined in that Act. That is a problem with the presentation of it.

Secondly, it is effectively what is in the New Zealand Act except that the New Zealand Act does not go as far as this. Even if the person who places the objection on the adoption register has been long since deceased, this places an embargo on an adopted person obtaining his or her birth certificate with information on it about his or her parents for ever. That is not what occurs in New Zealand. In

New Zealand, a negative entry in the register results in an embargo for a 10-year period only. Mr Wells' amendment would result in an absolute embargo.

If we are talking about the rights of people, I can understand it being argued that the rights of a relinquishing parent are such that the relinquishing parent does not want the personal hurt and embarrassment of the subsequent disclosures. I can understand that argument, and I would want at some later stage to suggest that it needs to be balanced up. However, this is not an amendment which simply protects a relinquishing parent from embarrassment; it is a provision which prevents, for all time, an adopted child ever getting a birth certificate. If members think about it for a minute, it actually goes further than that because it is saying that no identifying information may be placed on the birth certificate. So if one relinquishing parent were to place a negative entry in the register, it would not matter what the other relinquishing parent thought or felt—there would be no identifying information at all. Quite frankly, in the view of the Government that goes well beyond any argument in support of protection from embarrassment for a relinquishing parent who takes the step of imposing this situation.

The next point I make is that in New Zealand the right of the relinquishing parent to prevent the publication of his or her name on the birth certificate ceases on the death of that relinquishing parent. In other words, there are concurrent or personal rights, and those rights cease on the death of the holder of those rights, as it were. The proposed amendment seeks a right to impose, for all time, an embargo on any information being placed on a birth certificate.

Let us think of the context in which that is being argued. Mr Medcalf will be suggesting in due course an amendment which, if accepted by the Chamber, will provide protection from harassment for relinquishing parents. I give an indication now that the Government will not object to that amendment.

If we give protection from harassment to the relinquishing parent, how can it be argued that the rights of the relinquishing parent should completely overrule the rights of the child, perhaps now an adult, to obtain his or her birth certificate? One can argue the right of the relinquishing parent to privacy to prevent harassment, but surely it cannot be argued that the rights of the relinquishing parent are of such a nature as to affect for all time the rights of the adopted child. I believe the arguments in favour of Mr Wells' proposed amendment diminish considerably if it is accepted that there are rights against harassment written into the Act.

With respect, I think that honourable members must understand that the provision that Mr Wells has on the Notice Paper goes well beyond any of the prohibitions that exist in the New Zealand Act; and both in Victoria and in the United Kingdom the research that has been carried out demonstrates that access to this information has not resulted and does not result in embarrassment to relinquishing parents.

To sum up, Mr Wells seeks to do far more than any of the other Acts do in terms of preventing, for all time, access to any information on a birth certificate. That prohibition runs whether or not the objecting relinquishing parent dies, and it runs in respect of a relinquishing parent who has no objection to the information being released.

Let us be clear about it. We talk about the rights of the relinquishing mother. Some members have spoken about the rights of the relinquishing father, but in a situation where a putative father had almost no contact or no contact with the child, and no biological contact except for the moment of conception—he has never seen or had any dealings with the mother during her pregnancy or at or subsequent to the birth, but for some reason wants his name on the negative register—he prevents the child from obtaining his or her birth certificate for ever, even though the relinquishing mother might agree to it.

With respect, that seems to me an absurd proposal and I believe this Chamber should focus on—and I thank Hon. Ian Medcalf for his suggestion and careful drafting of it—protecting the rights of the relinquishing parents from harassment. The evidence is clear that it has not been a problem in the countries where the law has permitted information to be released; but even if it were, we are providing severe penalties for harassment which can act as a significant deterrent.

Whatever risk is left in terms of harassment—and I suggest from all the evidence and the proposed prohibition that it would be miniscule—for the sake of whatever is left, whatever miniscule prospects there are of embarrassment, we are interfering with the substantial rights of the adopted child, one of which must be to obtain a birth certificate.

The birth certificate will mark that child for all time as an adopted child. For the rest of that person's life, he or she will be unable to obtain information about his or her parents. That is what the amendment proposes. That is such a substantial interference with the rights of the adopted child and such a substantial and permanent embarrassment to the adopted child that the miniscule additional protection that the proposal would provide is not justified. I strongly urge honourable members not to pass the amendment.

Hon. P. H. WELLS: The Minister sought to persuade the Chamber that this is a big bogey to put in the clause. I must remind the Chamber that the current law regarding secrecy has been transacted by both Governments and has existed for a long time. I wonder what would happen if there was not a law which enabled adoptions to go through. Many of those girls are perhaps 14, 15, and 16. They may have opted out in terms of abortions, depression, or even murder. So the law, which has not been changed by either Government, though the Labor Government has consistently amended parts of it, has continued to recognise the rights of all parties.

Hon. Garry Kelly: The time has come.

Hon. P. H. WELLS: We are talking here about changing the rights contained in the existing laws which were passed and supported by the Government, which has maintained the protection of those rights. It has been accepted that the community is ready to change some of the ground rules.

I am not arguing about two people who want to come together but who should not come together. Even if they do not, I am not suggesting or moving amendments to stop any of the information becoming available to them other than for those who enter their names on the negative register, which will not give information which will identify the particular person concerned. In this case the Government has provided a negative register. The Government says that a person who does not want contact may put his name on the negative register. The Government has said this will be the protection.

I have had discussions with some women who phoned me virtually in tears. They were fearful of the proposal, because some years ago, when they were 14, 15, or 16, they found themselves with a child in an area where the community looked askance at that sort of thing. These girls made arrangements for the children to be adopted, and gave an undertaking to lose all their rights. The children would be looked after by their new mother and father, and the girls concerned would not contact them again.

Take the case where a young girl is now married. She may not have told her husband, the children, or other associated people of those events. With the changing of the rules she must now subject herself to going and telling somebody in the department, something she never thought she would have to do. She puts her name in the register, thinking for the second time in her life that she has some protection, only to find that the legislation provides that after counselling, the person concerned can receive identifying information and come knocking at her door.

Hon. Peter Dowding: Would you explain how that is a change in the law in regard to the release of the birth certificate?

Hon. P. H. WELLS: As I understand the position, the current law is that when an adoption takes place a new birth certificate is completed and the adopting parents are entered as the parents. There is provision to identify where the person was born, but the majority of people would not recognise the certificate as any different from any other birth certificate. It enables a person to receive a birth certificate. In many cases they may think that the parents with whom they have grown up are their own parents.

I gather there may be situations where parents will tell the children that they were adopted, but sometimes they may not. If one had adopted an Aboriginal, or if there were differences in terms of nationality the fact of adoption would be obvious.

What I want to point out is that a girl, who has gone through a dramatic experience for the second time in her life, may put her name on the negative register. The proposal is that this should happen, whether she is married to someone high up in the community or to an ordinary person. There may later be the drama of somebody knocking on the door and she will have to explain the position to her husband and to her children. This will create some trauma in her life, and I am suggesting that she should be protected on those odd occasions.

The Minister raised the point about death. In my speech in the second reading debate, I pointed out that in a number of areas this legislation is defective; and the Victorian legislation, and much of the other legislation, took that into consideration. A mother who puts her

name on the register may decide to change it 15 years later. If she decides to change it, there is another change.

In many places in the world, certainly in this country, both Liberal and Labor Governments have respected the rights of people. I am saying that in 99.9 per cent of the cases that will be the position, but if a person wants to exercise that right, then all the health information should be provided, but the area where an undertaking was given not to identify the parties should be protected. The Government has said that protection will be given, but the only way in which that protection can be given is by the inclusion of this clause.

In terms of the effect of the clause, there are subsequent amendments which will define to some degree that it relates to the birth certificate, but in this case it is indicating to the applicant, as is required by the two earlier provisions, that if she does not want to be contacted, her wishes will be respected. The change of law that the Government is proposing, together with these minor amendments, will mean the majority of people will obtain information. It is only on those negative occasions that people will put their names on the negative register.

[Questions taken.]

Hon. P. H. WELLS: This amendment, which only tightens up the register, will protect the rights of the child and certainly those of the relinquishing mother. It will balance it out. I point out to members that there are a number of defects in this and other clauses in the Bill, and the Minister decided not to answer those defects during his second reading reply. We would have had his direction. I suggest that the Minister could have put amendments on the Notice Paper. I draw the Minister's attention to the situation of that order being an issue. Clause 26(6) provides—

> The Director-General shall, upon the request of a person whose name is entered in the Adoption Contact Register, amend or cancel the entry relating to that person.

I suggest members could move an amendment to cancel its effect on death. I would have to give serious consideration in respect of the orders and their likely effect.

The area of difficulty is in regard to the death of a relinquishing parent. I pointed out at the second reading stage that this legislation contains a number of defects, and the Bill should be referred to a Select Committee so they could be remedied.

The Government has produced legislation which looks after a certain section of our community, but it has not thought out other situations in this area, and I am sorry for that. I do not want to delay the passage of this legislation. I want to ensure that the people who want to get together can get together, and I am only suggesting that people are granted privacy in cases where they have asked for it.

I urge members to give serious consideration to my proposed amendment.

Hon. P. G. PENDAL: Everyone would acknowledge that this is really the nub of the matter. I strongly associate myself with the amendment moved by Hon. Peter Wells, I do not mean this in a party political sense, but it really does draw the battle lines for the philosophical arguments that are raised when any of us seek to alter those conditions by which women, and to a lesser extent men, have in the past gone about the business of relinquishing a child.

I spent a considerable part of my speech on the second reading drawing the attention of the House to what I thought was a relevant example in respect of a 72-year-old woman whose letter is now a matter of record. That woman posed the question which really should dominate the whole of our thinking in respect of this matter, and indeed this part of Hon. Peter Wells' amendment—the right of the person relinquishing a child to continue to have the same protecton of the law today as was afforded five or even 50 years ago.

Hon. Garry Kelly interjected.

Hon. P. G. PENDAL: Hon. Garry Kelly does not help with his interjection because if he had bothered to play a close part in the second reading debate he would know that probably every member of this Chamber and certainly members of the Opposition with whom I have discussed the matter freely acknowledge that the adopted child has rights. This is not the question. No-one is saying that adopted child does not have rights. In this legislation, it is simply not possible to mix up a tin of black and a tin of white paint and arrive at some sort of compromise. We either accept that the natural mother has by law the right to protection of her privacy, because that is what the law gave her at the time of relinquishing the child, or we accept what Hon. Garry Kelly may conscientiously believe, that that right ought to be overridden by the right of the adopted child. I have no quarrel with Hon. Garry Kelly if he sees the right of the adopted child as being

paramount. However, I do object to being asked by interjection, "What about someone else's right?", as if no-one had taken the matter into account. If it was an easy matter to resolve, I suggest that no-one would have invested so much time in this Bill, and I mean that from both a Government and an Opposition point of view.

This is one of those unresolvable questions. One either accepts one side of the argument, or one accepts the other side. I am saying as strongly as I am able—to repeat the argument I used in the second reading debate, and to support most of the comments ably put by Mr Wells—that in the ultimate, the final analysis, the overwhelming or paramount right that must be addressed is that of the natural mother and the natural father.

The Minister told us a few minutes ago that all would be well if and when we got to the stage where Hon. Ian Medcalf's amendment which deals with harassment is adopted. With the greatest respect, I do not think that is the case at all. Mr Medcalf's amendment is certainly an important part of a number of amendments. Standing by itself it has really very little value, and that is obviously not to denigrate Mr Medcalf or his amendment. It is simply saying that his amendment is a bit like having the four wheels of a car without the body on top. One cannot view his amendment and other amendments in isolation from each other.

What I cannot get away from, with the best will in the world, is the knowledge that the law has guaranteed a relinquishing mother the right to privacy. I cannot get away from that as much as I would like to accommodate 100 per cent the wishes of the adoptee. Another point that is relevant as a flow-on to that aspect is that which was raised by Mr Medcalf in his speech on the second reading.

Hon. Peter Dowding: Are you saying it is a right to privacy or a right to absolute secrecy?

Hon. P. G. PENDAL: I see the difference, but I am saying that the two are bound up. The right to privacy is paramount and absolute.

Hon. Peter Dowding: But is it absolute secrecy?

Hon. P. G. PENDAL: Hold on! The secrecy aspect is really an administrative matter, and indeed that is part of the important amendment I hope to be addressing shortly, and part of what the Minister's amendment sought to address.

Mr Medcalf quoted perhaps one of the most important sources when he quoted Mrs Judith Forsyth. He reminded the Chamber at that time that as few as eight or nine years ago this woman, who was then in charge of the adoption division within the Department for Community Welfare, said a number of things. Underpinning everything she said was the belief that, whatever changes we might consider in the future in relation to our adoption laws, we would never contemplate retrospective action. I think that is the kernel of what Mr Medcalf quoted. I am entitled to ask what has happened to alter that view so dramatically in the space of eight or nine years? This was from a woman who presumably was the most experienced public servant in these matters in the State. Implicitly she supported the right of the person who had relinquished a child to privacy for all time. Members will recall those were her words and not mine.

I have happily admitted before in this Chamber that I generally tend to take a conservative view of most of the things. I understand Mrs Forsyth was not considered to be a conservative such as I might be, and yet only eight or nine years ago she was quoted in the media as saying quite explicitly that whatever changes there might be in our adoption laws we would not see any changes that retrospectively and adversely affected a woman who gave up a child.

To move to a final point with Mr Wells, I agree there seems to be some problem in this Bill about how far one denies that information. Do we continue to deny it after the death of the natural mother, or in a few cases, that of the natural father? I must admit I have not yet resolved that problem in my mind. It is significant that the matter of access to health information, which I hope will be addressed shortly, is being raised in an Opposition amendment. In other words, that is something else which was not part of the original Bill but which many of us, and I hope the Government, will still see a great deal of value in. It may well be there is a good argument for making that provision for a natural parent when he or she is dead. I suggest that is the responsibility of the Government.

I would not vote against Mr Wells' proposed amendment simply because we have not addressed that aspect. It is perhaps a matter for the next Parliament—in March, April or May—and if anyone on the Government or Opposition side of the Chamber feels strongly enough to bring back an amendment and it is

written carefully enough, I may well accept it myself. That is not a reason that we should fail to proceed down the path as outlined by Mr Wells. Indeed, one is entitled to say we have made slow progress on this Bill, for which I make no apology. That slow progress has meant things will probably be done better in this Bill than otherwise might have been the case.

I repeat my strong support for Mr Wells' amendment because it preserves the inviolate undertaking—I would have thought it was such—given to previous generations that the birth of a child and its adoption out to someone else would remain the business of the parent unless he or she was prepared to make that disclosure.

Hon. KAY HALLAHAN: I wish to speak on this clause in respect of the matter raised by Mr Pendal and the letter he quoted to the Chamber because I thought that letter would cause members a great deal of concern. In bringing this matter to the notice of the Chamber earlier, members might remember that Hon. Phillip Pendal referred to Jigsaw being involved in the case.

Consequently I took it upon myself to ask Jigsaw if it was familiar with the case because it seemed to me that there were extraordinary events associated with it and possibly the organisation would remember it. In fact Jigsaw did know the case very well, and the organisation had been involved. It is quite clearly not a representative case. It is clear that this letter has not totally outlined the circumstances.

In fact the relinquishing mother did agree to meet her son, and I think that is the nub of it. If we can accept that the relinquishing parent was contacted and agreed to meet her son, then to some degree I believe that underlines the whole point of contention.

Hon. P. G. Pendal: She acknowledged that in the letter.

Hon. KAY HALLAHAN: Why are we going on with all this other stuff? She was approached and she agreed—

Hon. P. G. Pendal: Because he broke the agreement.

Hon. KAY HALLAHAN: It is very difficult for us for we are getting into a very contentious argument about human relations, which are always complex. This case is complex, and it will not be in anybody's interest to outline all the circumstances associated with it, but I think it has to be made clear to members that the case outlined in the House is not in any way the total picture. I would just like members to bear that in mind when they consider the support Mr Pendal is giving to Mr Wells' amendment.

I do think, members, that we have to keep a sense of balance. We are putting a lot of safeguards into the legislation. Nobody wants to see added distress. This Bill is trying to reduce the trauma and distress and to satisfy the individuals' sense of needing to know more about themselves and their personal histories. That is all we are trying to do—nothing more than that.

The other person mentioned is the public servant, whom Mr Pendal mentioned as having said a particular thing eight or nine years ago. We all know that time moves on, and this subject has only recently surfaced to the field of public debate. Many people's opinions will change in a period of eight or nine years' discussion, and that hopefully is the promise of humanity—that we will be able to discuss and progress our ideas.

I strongly support the case put by the Minister on this issue. I would like members to discard—I think that is a fairly kind way of describing it—the amendment put forward by Hon. Peter Wells.

Hon. PETER DOWDING: I accept that this is a critical issue, and I wish to take some moments to make some further comments in more detail.

Firstly, it is not correct that this Bill will substantially change the law in relation to the release of information because at present the law is that the Registrar General may release the information. It is a matter for the discretion of the Registrar General, so we are not facing a major change in the law. We are faced with an administrative proposition, which can be acted upon on some occasions by the Registrar General, and on some occasions not. He can use his discretion, and Mr Wells is seeking to change that significantly.

Secondly, identifying information may include the date and place of birth. One of the points about Mr Pendal's letter from the septuagenarian is that she was located under the existing law. What we are proposing in our legislation—with the assistance of Mr Medcalf—is to provide increased support for the proposition that there ought not to be harrassment. This lady was located under the existing arrangement—

Hon. P. G. Pendal: And this Bill seeks to institutionalise and legalise that. That is the objectionable thing.

Hon. PETER DOWDING: With respect, that is tripe. It is demeaning of Hon. Phillip Pendal to have said that, because that is not what we are doing. No matter what law is passed, people will search for information and make a contact. Mr Wells' amendment is seeking to prevent a birth certificate ever coming out and being given to an adopted child when one or other of the relinquishing parents has taken a particular point of view at one stage. I think that is why it is worth saying that this is what we are protecting—it is not the right to privacy; it is not the right to prevent harrassment. We are saying that there is an absolute right to secrecy, despite the existence of the child, who might now be an adult, despite the fact of the birth, and despite the right of that child to some documentary evidence of his or her birth.

In other words, it is in order to provide absolute secrecy, which I suggest would not cause—as in the case of Mr Pendal's septuagenarian lady—other avenues for gaining this information to occur. Mr Wells' amendment is seeking to provide absolute secrecy against the right of a person for all time to be able to produce a birth certificate. I do not believe that this is a fair balancing of rights. I believe it to be an unfair balancing of rights.

Members in this Chamber are often lobbied by one or another group of the public and I suggest that either members have a very selective group of people who lobby them; or, alternatively, members tend to find support for their own views from comments that come into their offices. I can assure members that I have not had the sort of support for the propositions coming into my electoral office—

Hon. P. G. Pendal: You never go there.

Hon. PETER DOWDING: Do not be pathetic. This is a serious issue.

Hon. P. G. Pendal: I am treating it seriously. You are trying to denigrate people who have had good feedback from their electorates.

Hon. PETER DOWDING: Let me finish my point.

Hon. Tom Knight: It seems strange that you don't get it. I have a big file in my office.

Hon. PETER DOWDING: I certainly do not, and all of the lobbying in my office has come from people who support the Government's moves.

Let me go a step further, because I am not suggesting that this is absolute evidence of the view of the public. I am suggesting that it is an unreasonable way of assessing the view of the public, and I am sure we would all acknowledge that we need to look for some external evidence, if it exists, to find out the real views of the community, and what the real views of the people involved in this issue might be. I suggest that there is an opportunity in this case to test the water clearly.

Members will recall that the Minister for Community Services set up the contact register by administrative action on 1 July 1984. Since that time there has been a considerable amount of publicity. Hon. Tom Knight has had calls and letters; Hon. Phillip Pendal has had calls and letters; and I would say that anyone who has been involved in an adoption would have had an opportunity in the period between 1 July 1984 and now to resurrect in their own minds the issues that they might personally confront. The truth is that between 1 July 1984 and 14 November 1985 only one person in Western Australia has made a formal registration of her desire for no contact. The number of adoptees who registered seeking contact was 150.

One hundred and forty four relinquishing parents registered seeking contact. Fifty six adoptive parents registered seeking contact, and 35 relatives of the adoptee registered seeking contact. One person formally registered on the negative register. One person registered seeking a delay in contact—seeking, in other words, some sort of counselling process first—and one person made a verbal inquiry suggesting he or she wanted to register in the negative register but failed to do so. Three people sought registration in the negative register. One of those persons merely sought a type of counselling, one of them did not follow it up, and 395 persons who had been involved in the adoption process sought contact.

All those figures suggest to me that, when we are balancing rights and when we are seeking to put forward the absolute right to secrecy to one class of person caught up in the adoption processes, we are seeking to support a right when it appears, from our experience over a period of in excess of a year, with all the attendant publicity, that almost nobody has sought registration on the negative roll. That is surely a compelling reason for not accepting the amendment.

Hon. MARGARET McALEER: I take issue with the Minister on two points. First, I make it clear to the Minister that all the representations I have received were from people who supported the Bill or who would have liked a

more extreme form of the Bill. I did not receive any individual representations from relinquishing parents who did not wish to be identified. However, I do not think, in taking the whole matter into account, that on any Bill, let alone this one, one should judge it by the amount of lobbying one receives. Bills might touch on matters of great importance in which no lobby group is interested. One should not make a judgment on the amount of lobbying one gets, although one pays great attention to the arguments put forward.

If, as in my case, no-one put forward the argument for relinquishing mothers who might not wish to be identified, I would be required to form some idea of their point of view from cases that I had heard about and would have to take into account the fact that there was an existing contract through the adoption which guaranteed their privacy. It would not be a case of people just changing the rules. One would have to bear in mind that one was about to break, although legally, a contract. That seems to be a substantial matter which, quite apart from any lobbying that might occur, one has to decide on.

The Minister said that Hon. Peter Wells' amendment is seeking a decision which will stand for all time. It is quite clear, from a later clause in the Bill, that the relinquishing parent can change his or her mind after having made a negative entry in the register. It is true, of course, that the amendment has not allowed for the case of a parent who dies after making such an entry. As Hon. Phillip Pendal has said, this should be addressed at a later stage or could be amended in the present Bill.

On balance, I support the amendment. I think some of the Minister's arguments were specious.

Hon. TOM KNIGHT: In contrast to what the Minister said about the number of letters he gets in his office, I have received as many as 20 and 30 a week. I have answered every one of them. They have come from all over Australia and from people with differing views on adoption.

In contrast again to what the Minister said to the Committee, my original views on adoption were completely different from what they are today. I have been involved in this issue, have spoken to people about it, and have sought people's views on it. I have used the lobby groups to further my beliefs and ideas on this matter.

I mentioned previously that I received a phone call from a lady who gave me a different view on this matter. She wanted a little protection or a little privacy. Something had frightened that woman and she was concerned about her future and her family's future.

We are concerned about individuals' rights. This is a democratic society and people have rights. Those rights must be protected. That woman changed my thinking on this matter and I feel we must do something to help other people in the same situation as she is in.

One person rang me and many people have rung other members and have written many letters like the letter that was written to Hon. Phillip Pendal.

Hon. Peter Wells' amendment attempts to introduce something into the Bill which needs to be put in. At the same time, some people in the community require our support in a situation that may be unbearable for them. I am prepared, therefore, to support Hon. Peter Wells' amendment.

The CHAIRMAN: Order! I may have said that we will be going through this Bill clause by clause. These amendments are not in conflict with each other. If any members wish to amend Mr Wells' amendment they would have to move that amendment now because, once this Committee votes on the amendment, assuming that members decide to support it, I cannot then decide to accept another amendment. Members will have to foreshadow that they require to amend Hon. Peter Wells' amendment now. The only other way to amend it would be to recommit the Bill.

Hon. E. J. CHARLTON: The comments I made the other night were very brief, but I reiterate them because they apply to the amendment before the Chamber.

It has not been explained clearly what the words "identifying information" mean in terms of this amendment. Other amendments state that certain things should be taken into account and that the Director General can make certain disclosures and so forth.

Does this amendment mean that identifying information cannot be supplied if there is a notation in the adoption contact register that the relinquishing parent does not want to make contact with the adoptee?

We have two extreme points of view and obviously, as always happens, the area between is disregarded. On the one hand, a point has been made that a minority of people may not want contact and I am sure that the adoptee

concerned would respect that wish and the relinquishing parent should not be forced into having contact. On the other hand, that should not stop the adoptee from obtaining the information he requires.

Hon. Peter Dowding: This amendment is not about contact. It is only about issuing a birth certificate.

Hon. E. J. CHARLTON: It states, "all identifying information".

Hon. Peter Dowding: It is only about birth certificates.

Hon. E. J. CHARLTON: If the relinquishing parent has put his or her name on the negative register—

Hon. Peter Dowding: The adoptee cannot get the information.

Hon. E. J. CHARLTON: I advise the Minister that I am voting against the amendment. However, it is a shame that members are agreeable to legislating to make it possible for an adoptee to obtain his birth certificate in order to ascertain his background. Commonsense should prevail.

The comments to date have been made about the relinquishing parent who, I accept, is important in this issue. However, the other night I said in this Chamber that in any question in life one must put oneself in the other person's position. This applies in this case, whether it be the adoptee or the relinquishing parent. We want to protect both parties but we cannot include something in a Bill and say it will benefit 99 people out of every 100. I would like to see a clause in this Bill that will protect the one person, but I am not prepared to deny protection for the other 99. It is a shame that the Government has not included something of this nature in the Bill. It is also a shame that it has not been included in the form of an amendment. I am as guilty as any other member for not having brought forward a suitable amendment. An amendment should be along the lines that if a relinquishing parent does not want contact with the adoptee after having received the necessary counselling, his or her wish should be accommodated.

The adoptees who have spoken to me about this matter are quite happy to accept that relinquishing parents who do not want to make contact, should not have to do so.

We appear to be bogged down in this debate—interested people have been waiting around the building for the Committee stage for quite some time now—and it all comes back to two extreme points of view.

I will vote against the amendment because it goes too far. It the amendment is accepted I will seek at an early stage during the next sitting of Parliament to introduce an amendment to protect the one-off situation—it may not be a one-off situation; it may affect the majority of people. All sorts of figures have been quoted by the Minister, but I am unsure of the situation.

I ask members that when they make a decision on this amendment they bear in mind the people who have demonstrated in a voluntary capacity over a number of years that time is a good healer and that they would want to take advantage of the situation to allow contact to be made.

I try to put myself in the position of both the relinquishing parent and the adoptee. Certainly I would want protection if I were a relinquishing parent and I felt that way; and if I were an adoptee I certainly would not want to be denied the opportunity to ascertain my nationality, my place of birth, and the different aspects outlined in this Bill.

We should look at this legislation carefully because it is very easy to go too far, and in the end we could make it harder for people to trace their identities.

Sitting suspended from 3.46 to 4.00 p.m.

Hon. P. H. WELLS: The important point is that identifying information might lead to the person on the contact register being able to be located. Still other information is provided to other persons. Subsequent clauses provide for exceptional reasons under which information may be divulged. Therefore, members should support the amendments because they will protect the minority of cases seeking protection, but will not prevent health information and the like being divulged.

Hon. PETER DOWDING: Hon. Ian Medcalf drew to my attention something that he regarded as an inaccurate statement on my part. So that there can be no question of the Chamber not understanding my point, I will rephrase it. I said that the effect of relinquishing parents placing their names on the negative register could for all time deny adoptees access to their birth certificates. I add, as a rider for the sake of clarity, that that is the case unless the relinquishing parents change their minds, in which case they would make

another entry in the register and the information would then be available. However, the register cannot be changed after they are dead.

Hon P. H. Wells: You could amend it.

Hon. PETER DOWDING: It is a matter of principle.

I am sorry the Hon. Tom Knight did not understand what I was saying. I was not suggesting that people had not contacted him or rung him to express a point of view. I said that we were being asked to pass a law, to assess the question of parties' rights, based on information coming into our respective electorate offices. That information may or may not be an accurate assessment in quantitative terms of views in the community. More importantly, we are being asked to pass a law which flies in the face of the only reliable quantitative information that there is. I suggest that that is the point that Hon. Peter Wells has not answered. Quantitative information is available.

Should we pass a law adversely affecting the rights of 99 people at the request of one person? I said earlier that 395 people had participated in the contact register system. The more accurate figure is 388.

Hon. P. G. Pendal: They participated voluntarily, which is the important element.

Hon. PETER DOWDING: Yes, voluntarily, but they were able to protect their rights to non-access. Out of those 388 people, only one has definitely stated that no form of contact was wanted. One person wished to stop 150 adoptees from having the right to obtain this information.

Hon. Tom Knight: They only wanted to stop one.

Hon. PETER DOWDING: But the honourable member wants, on the evidence before us, to pass a law that will affect the rights of 150 people—that will prevent their having access to information about their birth for the sake of one person.

Hon. P. H. Wells: Just one.

Hon. PETER DOWDING: The member wants to pass a law. His evidence for wanting to pass a law that would effectively expunge the rights of those adoptees is that there may be relinquishing parents who do not want to be contacted. He feels that their rights to privacy should be respected. However, the evidence of 388 cases suggests that only a very small minority of people do not wish to be contacted.

Hon. Tom Knight: You are missing the point.

Hon. PETER DOWDING: In protecting the rights of that minority, do we affect the rights of the majority?

Hon. P. G. Pendal: We did that for you over two years ago when we abolished capital punishment.

Hon. PETER DOWDING: That is a moral issue, and this is a matter of rights. We are talking in this case about competing rights. The point made in support of these amendments has been that in the balancing act of competing rights we should come down in favour of the rights of the relinquishing parents to say whether the adoptees should have access to their birth certificates.

The evidence shows, in undeniable terms, that in protecting that right we would be extinguishing the right of the adoptees. We would be doing so for the sake of a very small minority of those who were involved with adoptions.

Hon. P. G. Pendal: I agree with that point.

Hon. PETER DOWDING: That is the point that I am making. It is my argument that that is wrong. If those promoting these amendments were to say that it was their moral view that relinquishing parents ought to have the right to deny to adoptees access to birth certificates, I would understand that, but they can hardly base their arguments on any experience of the views of the real world, because those views show that the overwhelming preponderance of people who have been involved in an adoption situation have not sought to prevent adoptees from having that access.

As I said to Hon. Eric Charlton, the issue here is not that of access; it is not that of contact. The evidence is that, despite the existing difficulties in obtaining access to information, people still find their natural parents. That evidence comes from honourable members who are supporting the amendment. Thus the issue is not about contact, which is covered by subsequent clauses. The issue is that of a document evidencing one's birth. That is the central issue. The other issues of harassment, right to confidentiality, and the like, are caught up in other clauses of the Bill. We are debating whether people should have a right to a birth certificate. Mr Wells wants to say that that birth certificate should contain no information which he describes as identifying information.

Identifying information could include the date and place of birth. All those facts which appear on a birth certificate may well be identifying information. That is, in my respect-

ful submission to the Committee, quite wrong and it is interference with the rights of the person. Whether the person proceeds to locate the natural parent is only partially related to the question of what is in the birth certificate. It may be that the person will locate the natural parent in some other way, hence our support at this stage for the anti-harassment provisions, and debate over the confidentiality provisions, and in relation to the register and obligations for counselling before proceeding down that path.

I urge honourable members opposite to think carefully about the provisions in Hon. Peter Wells' amendment and to oppose it.

Hon. TOM McNEIL: I support the remarks made by the Minister and also those made by my colleague, Hon. E. J. Charlton. I do not doubt that the amendment moved by Mr Wells was put forward in good faith, but it is important to remember that if we support that amendment, the heart will be torn out of the legislation.

Once this Bill is passed, it will become law and we should not allow a minority situation to influence us unduly. The evidence that has been presented to the Committee substantiates the case put forward by the Minister; it suggests that only a small number of parents will wish to register on the non-contact register and will thus express a desire not to meet the adoptee.

I do not know why we have debated this amendment for so long, and I hope that when members vote on this issue they will not do so on party lines. The members of the National Party are not in agreement on this matter, and we shall all exercise a free vote on the issue. I hope that we shall act as a House of Review and that members will form their own opinions. Members should not feel obliged to vote in a certain way because their colleague has moved an amendment. If we did that we would not be reviewing the legislation.

I can see great merit in the amendment moved by Hon. I. G. Medcalf, but in all sincerity I can give no support to the amendment move by Hon. P. H. Wells. I have spoken to him privately about this matter.

I believe the Committee should support the Government on this legislation and that the amendment should be defeated.

Hon. KAY HALLAHAN: I have been very concerned at the way the discussion has proceeded on this clause, which is quite clearly very important. I remind members that one point has not been made really clear in the debate, although members have referred to it, and that is the rights of the child. The child could be of any age, but the ones we are concerned about are the adults who in my opinion, and in the opinion of many members present, have a right to receive a copy of their birth certificates. That is the fundamental issue we are now considering.

I have considered the odd cases that have been quoted, but the fact is that there is no room for a Chamber such as this to make laws on the basis of anecdotal evidence. We have heard much consistent evidence in this field about the parties involved in the adoption triangle. They have worked, discussed, compromised, and debated the issues. They have also been extraordinarily successful in winning the support of the media. We have all seen reports of the heart-warming harmonious reunions that have taken place over many years. We all like to think that those reunions will be harmonious, but we all know that in the field of human relationships that will not always be the case. However, the Bill allows for the situation in which harmony is not achieved and in which safeguards are needed.

I do not disagree with any member who has put forward the case to this committee that safeguards are needed. I have not heard any members say that they are not and much thought has gone into strengthening those safeguards. The amendment by the Minister will strengthen them and he has indicated that the Government will accept the amendment put forward by Mr Medcalf. The process is towards strengthening the provisions so it cannot be said that anybody is unconscious of the need to safeguard the parties involved. However, very few instances could arise and for that reason we should support the legislation introduced by the Government.

We should ignore or vote against the amendment put forward by Hon. P. H. Wells. Although I think his intent is genuine, his point of view is not adequate for any real safeguard and, what is more disturbing, it is denying the basic rights of adopted children. We are trying to improve the legislation of this State; we do not want to deny those rights. I have heard many comments about why the Government had not introduced the legislation to protect this basic right before 1985. It is a fact that in

1985 we shall enshrine in our legislation, hopefully, a fundamental human right. I have not heard a comment that leads me to believe anything overrides that basic right, particularly when we have talked *ad nauseam* about the needs for safeguards. Of course, we need safeguards and the proposals provide those safeguards.

There is empirical evidence to support the fact that 81 per cent of adoptees have no desire whatever to contact their natural parents. That is an enormous percentage. Also, 64 per cent of adoptees wish only to complete their sense of self-identity. Members may remember the other evening that I referred to the article in a book on adoption regarding people having access to their birth certificates, and a great deal of that book said that people simply need to complete their sense of self-identity. The actions of this Committee are very important and I cannot stress that more strongly.

It has also been stated that 17 per cent of adoptees are said to be naturally curious about their origins. We can all understand that feeling. I can remember when I was a child wondering if I had been adopted, such was the secrecy surrounding adoptions in those days. It was said that a whole host of people wondered whether they had been adopted and many felt that their sense of identity was threatened, without cause.

In fact, as time went on there was clear evidence to me that I was not an adopted child. I was the natural child of my parents. When laws are shrouded in secrecy, we throw the whole psyche of our community into disarray.

This year we can straighten out that disarray and we can say that there are certain fundamental rights our citizens should have access to, and a birth certificate must be one of them. I ask members to disregard the very emotional arguments put forward and to think back on the address of the Minister. He has put a very lucid case in support of this legislation, and I think Hon. Ian Medcalf is overdoing it with respect to the need for additional safeguards. If safeguards are to reassure people, let us have them, but let us not deny people their rights. Let us, this afternoon, move in such a way to bring in sensible legislation that ensures people's basic human rights.

Amendment put and a division taken with the following result—

Ayes 16

Hon. C. J. Bell	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. Neil Oliver
Hon. H. W. Gayfer	Hon. P. G. Pendal
Hon. Tom Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. John Williams
Hon. I. G. Medcalf	Hon. Margaret McAleer

(Teller)

Noes 15

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
Hon. Kay Hallahan	

(Teller)

Amendment thus passed.

Hon. P. H. WELLS: I move an amendment—

Page 17, line 29—To delete the words "applicant; and" and substitute the following—

adopted person;

Amendment put and passed.

Hon. P. H. WELLS: I move an amendment—

Page 17, after line 36—To insert the following—

; and

(d) shall not supply an extract from, or certified copy of, the original entry of the birth of the adopted person in the register of births under this section if there is any entry in the Adoption Contact Register to the effect that a natural parent of the adopted person does not wish to have contact with the adopted person.

Hon. PETER DOWDING: I can only be critical of Hon. P. H. Wells in putting up an amendment, the effect of which is utterly unacceptable to the Government. How is an adopted child to join the local football team when the child has to take an extract of birth? He gets that extract of birth from the registrar's office. Extracts and certificates are two different things. The certificate issues with a large amount of detail in it. The extract simply records the fact of birth. What Hon. Peter Wells intends to do is prevent an adopted child

doing that. At the moment, at least, a child can get an extract of his birth certificate so that when he joins a football team, goes to school, or joins the tee-ball association, he can go to the registrar's office and obtain an extract.

This debate has proceeded on the basis of ill-conceived views of a complex social issue. In my view it is absolutely intolerable for this Chamber to consider penalising children or adult adoptees by preventing them from obtaining an extract of their birth.

Hon. P. G. Pendal: Emotional claptrap!

Hon. PETER DOWDING: Of course it is! I wish Mr Pendal would deal with this issue seriously. Where there is a negative entry in the register under this proposal, the existing arrangements where a child is able to obtain an extract to join a tee-ball team will be abolished.

Hon. MARGARET McALEER: In my opinion the Minister is quite wrong, because the effect of the amendment is simply to prevent the original birth certificate or extract of it being obtained. Every adopted child has a proper birth certificate.

Hon. Peter Dowding: That is not correct.

Hon. MARGARET McALEER: My understanding is that every adopted child is supplied with a birth certificate with the names of the adoptive parents on it; therefore, when the child applies for a birth certificate, a copy, or an extract, the extract is from that birth certificate. There is no identifying mark on that birth certificate, so unless somebody is an expert he would not be able to say that it was the certificate of an adopted child.

Hon. PETER DOWDING: I do not accept that. The point is that an extract is a document which issues from the register of births, deaths and marriages, and records material about the date and place of birth. An extract can mean some information from the original birth certificate. But the information from the original birth certificate which will be recorded in the extract is the date of birth. The member is suggesting by this amendment that that cannot be done.

Hon. MARGARET McALEER: There must be no extract from the original. There is no reason why there should be. It is consequential on the first point, which is to deny access to the original birth certificate.

Hon. I. G. MEDCALF: Perhaps I can throw some light on this. The other day I received a telephone call from a lady who told me in good faith that when an adopted person applied for a passport he had to produce the original entry of birth; that is, the certificate of the original entry

I checked very carefully with the Registrar General on the procedure. He told me that was not correct. He is called on every now and then to issue certificates to people who have been adopted, and they receive the same kind of certificate, to all intents and purposes, as everybody else, and it shows the adopting parents as the parents.

Whether one is adopted or not, one can ask for an extract, which is relatively cheap, or for a certified copy of a certificate of birth. If one is adopted, the certificate is just like anyone else's. One is treated in exactly the same way and the fee is paid. In the case of a certified copy it is $10. I know because I had to get one the other day. That gives information about the date and place of birth, and it shows the adopting parents as the parents.

Hon. Peter Dowding: The extract does not contain that information.

Hon. I. G. MEDCALF: It gives the same information on the extract in the case of an adopted person as in the case of anyone else.

Hon. Peter Dowding: That is what I am saying.

Hon. I. G. MEDCALF: The Minister is wrong. One can join a football club with an extract or a certified copy. I have never heard of a football club which wants a certified copy, but if one is wanted it can be obtained by an adopted person without any trouble.

The Minister appears to have misunderstood the section. This amendment refers to the original entry of birth. That is entirely different. The original entry is the entry which relates to the natural parents, and that is the one which the Minister appears to be thinking is the entry required by football teams and anybody else. That is not so. The adopted person can receive an extract or a certified copy, the same as anyone else, without any problem. The only difference is that in the case of an adopted person it shows the adopting parents instead of the natural parents.

I also asked the Registrar whether he used the letter A or some identifying mark on these certificates, because I had in mind that some years ago this had been the case. He said it used to be the case, but there were various complaints, and after discussions with the Parliamentary Commissioner, the practice has been

discontinued. No special identifying mark now appears on an adopted person's certificate of birth.

Hon. PETER DOWDING: If Hon. Ian Medcalf is correct, why include reference to the extract? The member has already said the extract does not record any information about the antecedents of the child.

Hon. P. H. Wells: The extracts of the antecedents.

Hon. PETER DOWDING: No extract records information about the antecedents of the child. The child's birth is on the original birth certificate and the subsequent birth certificate. The extract of the information contains the child's name and the date of birth from the original certificate, the same information as appears on the second certificate. It does not include identifying information.

If I am wrong, it is because there is no mechanisism for providing identification. It does not show anything about the antecendents of the child. If the member is wrong, the consequences are quite serious.

I do not believe that this amendment is required, because under the existing legislation the discretion rests with the Registrar General. The amendment is removing that discretion and imposing an obligation not to provide the information.

Hon. Margaret McAleer has foreshadowed an amendment to provide discretion, but only in exceptional circumstances. The words which I understand she proposes to make reference to are "exceptional circumstances relating to health or otherwise." Obviously the circumstances are very limited.

In any event, I think enough has been said. The Government opposes this amendment, and I believe it ought not to be supported.

Amendment put and a division taken with the following result—

Ayes 16

Hon. C. J. Bell	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. Tom Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. John Williams
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer

(Teller)

Noes 15

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
Hon. Kay Hallahan	

(Teller)

Amendment thus passed.

Hon. P. H. WELLS: I move an amendment—

> Page 18, lines 8 to 17—To delete subclause (4) and substitute the following—
>
> (4) Where the Director-General has received an application under subsection (1) and is satisfied that—
>
> (i) the adopted person has received counselling by an approved counsellor; and
>
> (ii) there is no entry in the Adoption Contact Register to the effect that a natural parent of the adopted person does not wish to have contact with the adopted person,
>
> the Director-General shall apply to the Registrar-General for the issue to the Director-General or to the adopted person of an extract from, or certified copy of, the original entry of the birth in the register of births relating to the adopted person.

Amendment put and passed.

Hon. MARGARET McALEER: I move an amendment—

> Page 18, after line 30—To insert the following new subsections—
>
> (7) Notwithstanding any other provisions of this Act, where the Director-General has received an application for information from any person having a sufficient interest relating to an adopted person or the natural parents, adopting parents or relatives of an adopted person and considers that by reason of exceptional circumstances, relating to health or otherwise, it is desirable to release any information he has to the applicant he may, subject to the approval of the Minister and subject to such con-

ditions as the Director-General or the Minister may stipulate, release such information.

(8) Any person who breaches a condition imposed under subsection (7) commits an offence.

Penalty: $2 500 or imprisonment for six (6) months.

The intention of this amendment is to provide access to information about an adopted person's background to any person, if it can be shown that he has a real interest in the matter and in the adopted person and that there is a real need for the information to be given. I mention the example of a doctor treating a patient who is denied access by virtue of the endorsement on the register in a case where the person's disease is thought to be hereditary. Another case is that of a marriage between adopted persons, where it is suspected that there might be some history of mental disease or hereditary disease, such as Huntington's disease, existing in the family of the adopted person, and the doctor is again denied access to the original birth certificate. One can imagine other circumstances which might, for instance, relate to inheritances or possible marriages between siblings, in which cases certainly the natural parents should be identified.

This amendment leaves the judgment of "exceptional circumstances" to the Attorney General and to the Minister, and it allows them to impose such conditions as they might, but not necessarily, deem necessary. When I use the word "conditions" I mean simply that, suppose the name of the relinquishing parents was being communicated to a doctor, the Minister might stipulate that the Registrar-General should not release those names to the adopted person or perhaps to publish them in any way, and this is quite a normal condition.

I understand there are cases in some families of psychiatric disorders, which it would be very unfortunate if an adopted person were informed about. I base that point on the United Kingdom law dealing with the matter.

A penalty is attached to this amendment wherein a person who breaches the conditions would be committing an offence for which the maximum penalty would be $2 500 or six months' imprisonment.

While we regard the amendments of Hon. Peter Wells, which have been passed, as an immediate safeguard for the relinquishing parent, we would not wish to deny necessary information to an adopted child simply because we were also trying to safeguard the relinquishing mother in the ordinary circumstance.

I hope that this amendment will be sufficient to give an additional right to the adopted child.

Hon. PETER DOWDING: I wonder if I could entice Hon. Margaret McAleer to consider sympathetically a small amendment to her proposed amendment before it is voted upon? The advice I have received is that circumstances which give rise to the need for this information being provided are not exceptional; they are quite often fairly ordinary circumstances—for instance, if an adoptee is left money in a will, or in the case of the health reasons to which Hon. Margaret McAleer referred.

Since the discretion as to checks and balances not only requires the Attorney General but also the Minister to be involved in the process, would the honourable member accept that instead of the word "exceptional" the word "particular" become part of her proposed amendment? It would then read "particular circumstances" instead of "special circumstances". This will mean there will not have to be exceptional circumstances because that word, frankly, might limit it beyond the circumstances that already exist for the supply of this information and which occur from time to time.

Hon. MARGARET McALEER: I agree with the Minister. Perhaps "exceptional" has a rather severely limiting meaning. I accept the suggestion made by Hon. Ian Medcalf that "special" would be a preferable substitute.

Hon. PETER DOWDING: I move an amendment to the amendment moved by Hon. Margaret McAleer—

To delete the word "exceptional" appearing in the proposed new subsection (7) and substitute the word "special".

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Clause, as amended, put and passed.

Clause 26: Section 24AB inserted—

Hon. P. G. PENDAL: I am asking the Committee to consider a series of insertions in this clause and to support them. Members will be aware that under the Bill presented by the Government, the Registrar-General would have the power not only to publicise the establishment of the adoption contact register, with which I have no quarrel, but also the power

under proposed subsection (5)(b) on page 20 of the Bill to invite adopted persons and natural parents to record their wishes. I have no objection to any measure which would persuade people to submit their names to the record voluntarily; I outlined that during the second reading debate. Given that the Committee has now made a decision in relation to Mr Wells' amendment, I suggest there is really no trauma in accepting the amendments I have listed for a new subclause (5).

The essential difference is that under my amendment the Registrar-General, instead of inviting adopted persons as the Government proposed—which may mean he could obtain access to all those records and then write or otherwise make an approach to a natural mother, or for that matter a natural father, which I would find unacceptable for much the reasons we heard earlier in this debate—would be given the power to advertise his work in this respect. He could perhaps do this by way of advertisements in the births, deaths, and marriages page of the newspaper that most people consult on a daily basis. That would achieve almost the same end as the Government's proposal.

I move an amendment—

Page 18, line 32—To delete "section is" and substitute the following—

sections are

Amendment put and passed.

Hon. P. G. PENDAL: I move an amendment—

Page 20, lines 7 to 18—To delete subsection (5) and substitute the following—

(5) The Director-General shall from time to time, by advertising in such manner as he considers appropriate, publicize the establishment of the Adoption Contact Register and invite adopted persons and natural parents to record their wishes in relation to obtaining information about, or meeting or providing information to, another person whose name is, or may in the future be, entered in the Adoption Contact Register.

Amendment put and passed.

Hon. P. H. WELLS: I raise a question in relation to line 22 on page 20. One of the issues the Minister raised was the situation that would be created by a person's death. It seems reasonable to take this opportunity, although I have not had time to look at all the eventualities, to amend this proposed subsection. I move an amendment—

Page 20, line 22—To add after the word "person" the words—

and in the event of the death of the person whose name is so entered cancel the entry relating to such person

The effect of subclause (b) is that it provides the Director General with the opportunity at the request of a person whose name is entered in the adoption register to amend or cancel the entry relating to that person. That takes into account the situation the Minister raised of a person's entry being in the negative register forever; under this amendment, in the event of that person's death the right of entry on the negative register is cancelled. As a result, the adoptee is able to get the information on his or her birth certificate after that person's death.

Hon. P. G. PENDAL: I will say for the record what I have said to Mr Wells in private. It was incumbent on the Government to come back at some future time with an amendment to cover the situation relating to the death of a person. It is a bad principle to make last-minute changes 30 seconds before a vote is to be taken. I will support Mr Wells, but I do not think it does justice to the proper scrutiny of legislation.

Hon. PETER DOWDING: I do not accept always what Hon. Phillip Pendal says and I will not say that I accept it on this occasion but in the circumstances the Government will support that amendment.

Amendment put and passed.

Hon. P. G. PENDAL: I would make a very brief comment in relation to the insertion—

Points of Order

Hon. PETER DOWDING: As I understand it, this is the insertion of a new clause, and the procedures of this Chamber require us to proceed through the Bill and deal with the insertions of any clauses in the order in which they were amended. Mr Chairman, you would be aware why clause 20A could not be dealt with. If that is not the reason I want to move after clause 28 that the Bill be amended by the insertion of clause 20A.

The CHAIRMAN: I will not uphold that point of order. I do not believe that these are new clauses. I have to admit I examined very closely the difference when ruling on the Minister's original proposal that I would not accept it as an amendment. In this, case we have already

have a 24A in the clause. Therefore, as we have a 24AB and the member only wishes to add a C and D, they can be treated as amendments rather than new clauses.

Hon. PETER DOWDING: Before you get to that amendment, Mr Chairman, I wish to move another amendment.

The CHAIRMAN: I am afraid that the amendment first listed must come first.

Hon. PETER DOWDING: Hon. Phil Pendal has not moved his amendment. I am seeking the call to move an amendment.

The CHAIRMAN: I am afraid Mr Pendal has a prior amendment. The Minister has amended 24AC. I cannot see that his amendment comes before Hon. Phil Pendal's.

Hon. PETER DOWDING: I am on my feet.

The CHAIRMAN: I am afraid the prior amendment must be taken first. Amendments come on in the order in which they were submitted to the Chamber.

Hon. P. G. PENDAL: The Minister was indeed on his feet, but he rose only three minutes ago when seeking a point of order. I was on my feet talking to the amendment before us, so the Committee should not be under the illusion that the Minister had the call.

The CHAIRMAN: I rule that the Minister was on his feet to a point of order.

Committee Resumed

The CHAIRMAN: Mr Pendal wishes to present to the Chamber an amendment which has already been listed, and then we will give the Chamber the benefit of an explanation of the amendment foreshadowed by the Minister, and the Chamber will decide which of the two shall be inserted.

Hon. P. G. PENDAL: What you have said, Mr Chairman, is that we are really in a situation of having to choose one or the other. We have not seen what the Minister has in mind.

The CHAIRMAN: I have the matter in hand.

Hon. P. G. PENDAL: I move an amendment—

Page 20, after line 22—To insert the following—

24AC. (1) A person who, in the course of their duties under this Act, has received any information relating to an adopted person or the natural parents, adopting parents or relatives of an adopted person, shall not, unless specifically authorised by this Act to do so, make any record of, or divulge or communicate that information.

(2) Any person who contravenes the provisions of subsection (1), commits an offence.

Penalty: $2 500 or imprisonment for six months.

The CHAIRMAN: I believe it might be in the best interests to add all Mr Pendal's amendments together as they have been submitted to us so I will read 24AD.

Hon. P. G. PENDAL: I am happy to take that as read.

The CHAIRMAN: The Minister for Employment and Training has proposed a further amendment to Mr Pendal's amendment, which indeed is an alternative amendment similar to that in which he foreshadowed as with a new section 20A to be inserted. Members will find that listed on their Notice Papers. He also now changed that to 24AC to be inserted.

Hon. P. G. PENDAL: 24AC comes down to two words, "unauthorised disclosure" on the part of anyone administering the Act. Therefore I intend to ensure that anyone who does disclose information other than in an authorised way ought to be penalised for it. There is nothing revolutionary about that. For the comfort of members, there is a provision in the Pay-roll Tax Assessment Act about unauthorised disclosure. There is a similar provision in the Parliamentary Commissioner Act, that is, for the Ombudsman. There is a similar provision in the Financial Institutions Duty Act, and many other Statutes. That is the import of proposed section 24AC.

Proposed new section 24AD is not dissimilar. It is a flow-on to that which would require certain people to take an oath which would be administered by a magistrate. That in itself is nothing very revolutionary. Members can refer to section 8 of the Parliamentary Commissioner Act and see that there is an obligation to swear an oath, although in that case it is an oath before the Presiding Officers of the Parliament.

In brief, all it does is to persuade officers administering such an Act that they have grave obligations to secrecy and that any unauthorised disclosure on their part would be met with a severe penalty. I do not know whether it is competent for me to comment why the Committee should support my amendments.

The Minister's amendment deals with confidentiality. I commend the Government for coming forward with an amendment to cover that which has concerned a number of Opposition members and a number of Government members as well. However, it is probably too little too late. I do not say that unkindly. The Minister's amendment is far broader and far looser and, in fact, permits five separate occasions when there could be exceptions to that disclosure action. His proposed amendment states—

A person who,

This is the first exception—

except for the purposes of this Act or as may be permitted by this Act or the regulations or with the written approval of the Director General or the principal officer of an approved adoption agency—

So we are dealing in the Minister's amendment with something that will be delegated down the line a fair bit. I strongly urge the Committee to agree that that watering down process in fact undermines the very essence of what I am seeking to achieve with the combination of my two amendments, and that is to make quite rigid provisions for the unauthorised disclosure. I urge the Committee to adopt both of my amendments and not to adopt the amendments which will be moved by the Minister even though I acknowledge it goes some of the way towards what I am seeking to achieve.

Hon. PETER DOWDING: I move an amendment to the amendment moved by Hon. P. G. Pendal—

To delete all words after "24AC" in the proposed amendment down to and including "six months" and substitute the following,

Confidentiality.

"A person who, except for the purposes of this Act or as may be permitted by this Act or the regulations or with the written approval of the Director-General or the principal officer of an approved adoption agency, directly or indirectly—

(a) makes a record of any information; or

(b) divulges or communicates to any person any information,

being information contained in records, books, documents or files of or in the possession or under the control of the Department or an approved adoption agency and relating to the adoption of a child or arrangements or negotiations for or towards or with a view to the adoption of a child is guilty of an offence against this Act.

Penalty: $2 500 or imprisonment for 6 months.

This is an important issue. I ask members to give some careful consideration to it before casting their votes. The amendment to Hon. Phil Pendal's amendment gives a broad and specific obligation preventing information being disseminated other than in accordance with the appropriate official dissemination procedures provided for by the Act or the regulations, or with the approval of the Director General or the head of an adoption agency. That is a very specific provision and, in the view of the Government, it is an appropriate confidentiality provision.

Mr Pendal's amendment goes much further than that and discriminates against public servants. Public servants already, under section 81 of the Criminal Code, are subject to confidentiality provisions, the breach of which is punishable by two years' imprisonment for the disclosure of official secrets. With my amendment and that provision of the Criminal Code, public servants certainly have ample statutory inhibitors to breaching confidentiality. The suggestion that public servants ought to take an oath whereas private adoption agency officials ought not to be required to take an oath is, I believe, a vote of no confidence in the public servants who have ample reason not to disclose the information, including a threat of two years in prison if they did. What is this business of asking a typist in the department to take an oath, or asking public servants to appear before a magistrate, within the meaning of the Justices Act, to take an oath not to breach what is regarded as essential in the Public Service and, in any event, is covered by the confidentiality provisions which we have had drafted and which have been on the Notice Paper for some time?

Mr Pendal's amendment discriminates against public servants. It is a most extraordinary proposition that typists and clerks ought to have to swear an oath as public servants if they happen to be dealing with a particular area of responsibility.

If my amendment were accepted, officers of the Registrar General's Department, the Family Court, the Department for Community Services, and private adoption agencies would be

bound by the confidentiality provisions. I urge members not to accept Mr Pendal's amendment.

My amendment is to replace Hon. Phil Pendal's proposed new section 24AC. I have moved it in this way to give members a clear choice. Members will now have a clear choice whether to accept the confidentiality provisions of the Government or the additional and quite novel proposal for confidentiality plus a system of oath-taking for public servants.

Hon. P. G. PENDAL: There is nothing extraordinary about my amendment, as the Minister has tried to make out. If necessary, I will go through it chapter and verse to indicate to the Committee the other Statutes where we require a similar sense of responsibility from civil servants. The Minister says that it is a gross reflection on civil servants and, I say for the record, that it is not.

Hon. Kay Hallahan interjected.

Hon. P. G. PENDAL: When I have finished I invite Hon. Kay Hallahan to take the floor to show me why. Mr Dowding tells the Committee that it is ridiculous that we should require, for example, a typist to perform this duty. Why would that be ridiculous? It would be ridiculous because if a person is dealing with highly personal information—

Hon. Peter Dowding: Which they do in the Family Court every day of the week.

Hon. P. G. PENDAL: I did not write the Family Law Act.

Hon. Kay Hallahan: Thank God for that.

Hon. P. G. PENDAL: The Government has come to this Chamber and asked for certain innovations in the Adoption of Children Amendment Bill.

Hon. Peter Dowding: All that confidential material is there already.

Hon. P. G. PENDAL: Why is it that in the Parliamentary Commissioner Act there are similar provisions? What would the Parliamentary Commissioner, who deals with such matters—

Hon. Peter Dowding: He is not a public servant.

Hon. P. G. PENDAL: No, but he is an officer of the Parliament.

Hon. Peter Dowding: He is not a public servant and that is why the Criminal Code does not cover him.

Hon. P. G. PENDAL: In terms of this debate, whether the Parliamentary Commissioner is a public servant or an officer of the Parliament is irrelevant. What is important is that the Ombudsman deals with a lot of confidential matters and under the Parliamentary Commissioner Act certain restrictions are put on him.

Hon. Peter Dowding: He is not a public servant.

Hon. P. G. PENDAL: If that is the only argument the Minister has—that is, that he is not a public servant and that he does not have obligations under the Public Service Act and the Criminal Code—obviously additional safeguards cannot do any more damage.

Hon. Peter Dowding: You are assuming he takes an oath.

Hon. Kay Hallahan interjected.

Hon. P. G. PENDAL: I will let Hon. Kay Hallahan judge for herself. Put aside the Ombudsman whom we have all agreed—the Minister does not appear to be listening.

Hon. Peter Dowding: I am listening.

Hon. P. G. PENDAL: Mr Chairman, that is the very criticism you made about members on my side of the Chamber.

Let us look at the Statutes that are administered by public servants. Clearly, the Minister did not hear when I referred to the Pay-roll Tax Assessment Act which is administered by his frontbench colleague. All the revenue Acts are administered by civil servants and they have similar provisions. Mr Berinson would know that. They have an obligation to treat with a degree of confidentiality information which comes their way. Where is the revolutionary notion about that? I ask Mrs Hallahan if she would like to comment on that.

Hon. Peter Dowding: Do you want to include that provision in every Act?

Hon. P. G. PENDAL: I would include the provision in every Act where sensitive information is being dealt with. Would anyone suggest that we are not dealing with sensitive information in this case?

Why has the Minister come in with his own amendment? He acknowledges my argument. We are now dealing with a question of degree. The Government has acknowledged the lack of confidentiality provisions because it moved the amendment which is now with mine and which is now under discussion.

If that is not enough, I refer the Minister to a very recent Statute—the Financial Institutions Duty Act. I remind members that that Act was brought to the House by the frontbench Minister who is with us today, Hon. Joe Berinson. That Act contains the tightest possible provisions to ensure secrecy on the part of those administering the Act. If members want it chapter and verse, it starts at page 28 of the Financial Institutions Duty Act, section 8. It includes a special section on secrecy provisions and there is nothing revolutionary about that.

Hon. Kay Hallahan: Do they take an oath instead of making an affirmation?

Hon. P. G. PENDAL: Not that I am aware of. For a so-called radical political party, what is the great chasm that one has to leap over to accept the notion that one takes an oath when one will be dealing with sensitive information.

Hon. Peter Dowding: Be fair. In none of the Acts you have referred to, which apply to public servants, is there a requirement to take an oath. Do you agree?

Hon. P. G. PENDAL: Yes, I do agree. None of the Statutes to which I have referred has that requirement. We are dealing with the Ombudsman, and why would we want him to take an oath?

Hon. Kay Hallahan: Because he is covered by the Act. The Minister made that point clear.

Hon. P. G. PENDAL: Hon. Kay Hallahan misunderstood me. There are two issues at stake. The first, is the confidentiality provisions—Mrs Hallahan perhaps does not want to listen to me. It is a difficulty I have; I have been asked a question and I am not sure that the answer will get through. I repeat that there are two matters at stake. Mrs Hallahan does not understand, or she would not have asked the question she did.

The first matter relates to unauthorised disclosure, which is referred to in a great number of Statutes of this Parliament. The second part of what I am dealing with is the requirement to take an oath. There is simply nothing revolutionary about that.

We acknowledge that the people who are dealing with the Act are dealing with sensitive information. No-one has any difficulty with the idea that that person needs to maintain strict confidentiality.

Hon. J. M. Berinson: What would an oath add that is not provided already by the liability to imprisonment for six months under the Minister's power?

Hon. P. G. PENDAL: It would underline in that person's mind the gravity of the kind of work the person is involved in.

Hon. Peter Dowding interjected.

Hon. P. G. PENDAL: I am answering Hon. Peter Dowding's colleague. I will take questions one at a time.

The second thing it would do is precisely what we demand of the Ombudsman. I do not know if Mr Berinson has ever had to refer any matters to the Ombudsman. I have, and I guess that most members in this Chamber have. I can say with absolute certainty that there has been no matter that I have referred to the Ombudsman on behalf of any constituent of mine which is anywhere near as sensitive as the adoption issue.

We are essentially dealing with administrative matters, which is exactly the reason for the Ombudsman. My point is that one could say that it is an overkill of the Ombudsman's situation with the bulk of his work—

Hon. J. M. Berinson interjected.

Hon. P. G. PENDAL: I will sit down when I know I have some support for my argument.

Hon. Peter Dowding: You will not achieve it from our side.

Hon. P. G. PENDAL: I know that members opposite are not allowed to vote except along party lines.

I ask the Committee not to support the Minister's amendment for the reasons I stated at the outset. There are a great number of exceptions and I outlined five of them. The Bill contains a very broad confidentiality provision. Notwithstanding that, the amendment was brought to the Chamber upon second reflection, so the principle is acknowledged by the Government. I am simply saying that we should go one step further and include a provision which does seriously maintain a degree of confidentiality. In association with that, it requires people dealing with sensitive information to take an oath. I cannot see that that is an onerous provision when dealing with a matter as important as this.

Hon. I. G. MEDCALF: We are dealing with two matters. The first is Mr Pendal's confidentiality provision as opposed to that put up by Mr Dowding. The second matter is that of the taking of an oath by certain persons. Mr Dowding referred to the fact that members of the Public Service are being discriminated against, and that Mr Pendal's provision would not cover officers of private adoption agencies.

I suggest that that problem could be overcome if we delete the words in proposed section 24AD(1) that refer to public servants—that is, "The Director-General, the Registrar-General and all officers of the department and any other department of the Public Service"—and insert, "All persons other than the Registrar-General who may be required to carry out such duties". I would exclude the Registrar General because he comes under another Act which lays down his duties in relation to disclosure of sensitive information. I suggest that Mr Pendal and the Minister might consider deletion of those words in proposed section 24AD, relating to who shall be required to take the oath.

Hon. Peter Dowding: That would mean that all public servants would still have to take the oath.

Hon. I. G. MEDCALF: I suggest that the change I propose would not discriminate between public servants or anyone else as such. It would include them all. The Registrar General would be excluded for the simple reason that he is covered by his own Act which requires him in certain circumstances to divulge certain information. He ought to be excluded for that reason.

Hon. Peter Dowding: What about the Minister, Mr Medcalf, and the judges?

Hon. I. G. MEDCALF: Judges do not perform any duties under this Act.

Hon. Peter Dowding: They may do.

Hon. I. G. MEDCALF: I am prepared also to exclude the Minister if it is believed that he is required to perform some duties. If he is so required, I would also exclude the Minister from having to take the oath because he takes a separate oath.

Hon. Peter Dowding: I am told the Attorney General may also be affected.

Hon. I. G. MEDCALF: I am a bit doubtful about the Attorney General.

Hon. J. M. Berinson: You ought to know.

Hon. I. G. MEDCALF: Perhaps we should give a little further consideration to some of these aspects. This illustrates the problem of trying to rush everything through on one of the last afternoons that we are sitting. It is not easy to do so. I have always been very careful about accepting last minute amendments for this very reason. On the other hand, I do not believe that is a good enough reason to reject what I think is a desirable proposal. Perhaps the Minister should consider reporting progress on this Bill so that we can give some thought to it. Perhaps we could deal with it when we resume next week.

Hon. PETER DOWDING: The Government does not accept Mr Medcalf's suggestion. I invite honourable members to make a decision about the clear choice before them. The Government's view is that the confidentiality provisions as proposed by my amendment are sufficient and cover both the public sector and the non-public sector. Together with the other obligations already on public servants, the confidentiality provisions I propose impose ample reasons for not disclosing information. The addition of the requirement to take an oath or affirmation does not take the matter any further. The only reason for that in one Act to which the honourable member has referred is that the party concerned is not a public servant. Government departments, the Family Court, and all the agencies that exist to date, deal with confidential information. Why single out public servants to take an oath? It would mean that if there were a temporary typist in the department, a magistrate would have to be found so that the typist could take an oath. That would certainly be an administrative inconvenience. There has not been sufficient evidence put before this Committee that would indicate a requirement for a departure from a standard provision of the Statute that there should be confidentiality requirements and no oath.

I invite honourable members to choose between the confidentiality proposals put forward by Mr Pendal and those put forward by me. I believe that my confidentiality proposal is the only workable one because we must accept that the Director General must have a discretion. To require the persons specified in Mr Pendal's proposal to make an oath or affirmation before a magistrate that they will not make any record of or divulge certain information in the course of their duties would be an administrative nightmare. Duties are imposed on the Registrar General of Births, Deaths and Marriages; duties are imposed on judges under the Family Court Act. Those duties are not spelt out in this legislation. They must be covered by the confidentiality provisions, but we must not inhibit the functions of those other Acts. It would be quite wrong to insert a provision in this legislation requiring that people performing functions under these Acts should need specific authorisation to divulge material which may be relevant to this legislation.

I ask the Chamber to accept the Government's carefully drafted confidentiality provision. The importance of confidentiality is recognised. In our view it is covered in a range of places, but to start imposing this sort of administratively-contrived restriction—that is, by adding the words "unless specifically authorised by this Act" to proposed section 24AC—is to ignore the functions of the Registrar General under the Registration of Births, Deaths and Marriages Act and the functions of the Family Court under the Family Court Act. There will be occasions on which information will have to be disclosed in accordance with those Acts, but for which specific authorisation under this legislation will not be found. The confidentiality provisions of those other Acts will cover such situations. The confidentiality provided by my amendment would cover all those other situations.

I urge honourable members not to support either of the proposals put forward by Opposition members.

Hon. G. C. MacKINNON: I advise the Committee that I intend to support the Government on this matter.

An idea seems to be developing in this Chamber that, because one member happens to be handling certain matters, no other member has done any work on that legislation or has been able to form an intelligent view. That is not true.

I lived through an age in which illegitimate births were a shame and adoptions occurred regularly. That has now disappeared to a large degree. This Bill, like much legislation, is probably arriving too late and after the problem has, to a large extent, disappeared. My firm conviction is that the elderly people who may have committed an indiscretion should be protected, and that has been done.

I have also been in situations which required tremendous discretion by people who have been recipients of delicate information. Strangely enough, many of those people have been in humble jobs. For example, I refer to health inspectors who could have wrecked large manufacturing industries but, who through their discretion, allowed them to keep going and working over the weekend, despite the fact that some of the workers involved were in hospital. I have seen this discretion used in the Education Department and also in other departments. I do not believe that this amendment will make much difference to anybody except those who are very firmly of the resolve that they will not divulge a secret in any way, and in other cases the people are not necessarily honest. I have yet to see a Bill that has been chopped around like this one, and which eventually worked. I suggest that, if the Bill goes through, it will be back before Parliament next year for amendment.

I am reminded of the way we allowed Claude Stubbs to introduce a Bill banning the celebration of Guy Fawkes day with fireworks and bonfires. We had all the goodwill in the world but, because it was a private member's Bill, it was chopped to ribbons. It took us three years to finally overcome the problems caused by that legislation after it had been amended. That is another story which I may write about one day.

It is strange to note, when listening to this debate, that everybody's heart is in the right place. The sensible way to deal with this Bill would be to pick three members from each side and ask them to redraft the legislation. All members want the same thing. However, it is not possible to find a perfect solution for an imperfect situation. When a child is removed from its natural mother and adopted, it is surely one of the most imperfect situations. It is heartbreaking. I have experienced that situation in my family. It did not involve me, but a female relative who was very close and dear to me. That kind of thing is bound to happen in large families over a period of 69 years.

There is no perfect solution, but we are trying to do our best. In this instance I wanted to say a few words to indicate that I have been involved in this matter for more years than I care to remember; I have thought about it deeply, as I do with all issues of this nature; I decided that I would not become involved in the debate but became a little affronted when it was suggested that I do not know much about it. I clearly indicate that I intend to vote with the Government.

Hon. P. G. PENDAL: I wish to refer to a couple of comments made by the Minister with regard to how he felt it was not appropriate to have some form of oath. It is instructive to note that the Minister's argument rested almost entirely on the question of administrative inconvenience—the inconvenience of finding a magistrate, the inconvenience of finding a temporary typist to come to the department, and disruption of departmental goings-on in order to have an oath taken. I ask the Committee for whose benefit are we legislating? With all due respect, we are not legislating for the con-

venience of the Public Service; we are legislating for human beings caught up in this situation of adoption.

We now have a situation in which no member of the Government is in charge of the Bill. I will wait—

The CHAIRMAN: I suggest that the member should keep speaking and, who knows, something might emerge.

Hon. P. G. PENDAL: Pigs might fly! I do not think it is good enough for the Minister to base his argument against the requirement for an oath on whether it is convenient to the department. We are dealing with something far more important than that. The oath will do precisely what it does in the case of the Ombudsman—precisely what an oath does anywhere. Mr Kelly asks what good will an oath do. Does that mean that we are now abandoning the taking of an oath in the courts because what good will it do? Do we not, as members of Parliament, attend frequent naturalisation ceremonies in our electorates during which people take either an oath or make an affirmation? Why do we want people to do that? If we adopted Mr Kelly's mentality, we could ask what good will the oath do in a court. Does it mean that a person in the court will tell more of the truth because he has taken an oath? We could speculate on that all night long. If a person is intending to tell a lie in a court, he will do so whether or not he has taken an oath. If an unscrupulous civil servant wants to disclose something in an unauthorised fashion, I guess he will do so regardless of whether he has taken an oath or whether there is a penalty for his actions.

I regret that the Minister is not present to hear those arguments. What an incredible situation. We are dealing with a Bill, and the Minister in charge is not in the Chamber.

Hon. A. A. Lewis: He is listening to you and he is trying to help.

Hon. P. G. PENDAL: The Minister's place is in this Chamber. Is that really asking too much of him? Indeed, that very issue was raised in this Chamber several years ago by the Minister who is now missing.

I acknowledge that an oath will not make a person scrupulous if he is unscrupulous. I also acknowledge that an oath in a court of law will not make a person tell the truth if he is a liar. I am not sure what the taking of an oath does at a naturalisation ceremony, other than allow the person being naturalised to swear an oath of allegiance to the Queen. I acknowledge that people will not be made more honest by virtue of taking an oath. If one accepts that line, there would be no reason to ask anybody to take an oath. One need not be asked to take an oath, even in a court of law.

Hon. FRED McKENZIE: We are trying to arrive at a situation where everybody is happy. We have heard the position described by Hon. Graham MacKinnon. He has indicated there is goodwill on both sides, but there is an argument on the semantics of the clause.

Hon. P. G. Pendal: It is more than that.

Hon. FRED McKENZIE: Perhaps it is a little more, but it has been pointed out that adoption agency staff are not required to swear the oath, yet we are asking public servants to do that. Surely that is discriminatory. We are trying to avoid that situation.

Hon. Phil Pendal indicates quite rightly that the Minister was absent from the Chamber for a few minutes while he was speaking. I trust that he will understand the idea is to come up with something to accommodate both sides.

Hon. P. G. Pendal: Would you not agree that that is an occasion on which to report progress, because as the proposer I should be party to the compromise being sought?

Hon. FRED McKENZIE: We are all very anxious to get on with the Bill.

Hon. P. G. Pendal: I agree.

Hon. FRED McKENZIE: Time is of the essence. For that reason I shall not hold the Chamber up any longer. I just wanted to make that point so that members should fully understand.

Hon. P. G. PENDAL: May I be clear on what we are voting? It seems to me that some members of the Opposition have already indicated that they agree with me on the one point, but they agree with the Government on the other. I understand I may well be "done", if that is a parliamentary term, on the question of the oath.

If we are voting on clause 24AC, I ask the Committee to support me on the question of confidentiality—that is, on the disclosure of information in an unauthorised way. That would mean that when the question to include the Minister's confidentiality clause is put, the motion would be to insert it. As a result, people who are of like mind with me would vote "No". If the Noes won, that would dispose of the Minister's clause. Then my clause 24AC would be dealt with.

The CHAIRMAN: The first vote will be to the words after "24AC". That has been moved by the Minister. If that is successful and all words have gone out of the window, the choice of the Chamber is to insert words or have none at all. If the member is successful, then Hon. I. G. Medcalf has foreshadowed a further amendment.

Hon. P. G. Pendal: The question you are about to put relates to the Minister's amendment?

The CHAIRMAN: No, it is whether we delete the member's words with the object of putting his in. Are members aware of the question?

Amendment on the amendment (words to be deleted) put and passed.

Amendment on the amendment (words to be substituted) put and passed.

Hon. I. G. MEDCALF: I believe that the Minister's proposed amendment opens a much wider field than we had ever contemplated during the course of this discussion. The confidentiality provision includes five separate exemptions. Exemptions to confidentiality may be made in relation to this very sensitive information.

If it is for the purposes of the Act, I am prepared to go along with that. If it is permitted by the Act, I am prepared to go along with it. If it is permitted by the regulations, naturally we have not seen them and I do not know when they will be drawn up or what will be included in them.

Fourthly, the written approval of the Director General is mentioned. In other words, this is entirely outside the provisions of the Act. There can also be the written approval of the principal officers of approved adoption agencies. We do not even know who they are. We do not know who they might be, or when they might be appointed, or who might be the principal officers, or anything else.

This is going too far and I am not prepared to accept that amendment. It is much too wide, and it reaches a very sensitive area where we have traditionally required confidentiality, not only in the Registrar General's Act but in the adoption Act itself. Only the Registrar General or a judge or registrar of the court can allow this information to be made available. We are now to permit this information to be available in any of these five separate situations.

We should delete those parts of this amendment which go beyond what is permitted by the Act. I am prepared to accept those two cases, but it is going too far to bring in all these other possible situations. The Minister's amendment should be further amended by deletions of those parts of it.

Hon. PETER DOWDING: I have already made it clear, and I say it again, that the confidentiality provision will apply. The Director General already has discretion in the sense that there are no prohibitions against the Director General's decisions under the existing Act. The situation is not changed. We are changing it by imposing new confidentiality requirements. We impose these new requirements and we should not impose them on people whose primary responsibility is the administration of the Act or the adoption agencies concerned which will have their own criteria under the procedures of this Bill.

The position is clear. The Government will not support any change to that proposed insertion.

Hon. P. G. PENDAL: I oppose and for that reason will vote against the Minister's confidentiality clause in so far as it affects the regulations. I find it an extraordinary proposition to extend that position to the regulations. We might as well throw out the whole concept of confidentiality if this Parliament does not lay down the ground rules for that confidentiality. If it is to be left to the regulation-making process, we may well throw the whole thing out. That would be absurd because even the Government acknowledged the need for the confidentiality clauses at the introduction of the Bill, and indeed later.

I have grave concerns about the use of regulations in that way and, as the Minister has indicated he is not prepared to consider an amendment in that respect, I want it clearly understood that, apart from the concept that Hon. Ian Medcalf mentioned—the five categories I mentioned earlier—it is a retrograde step in trying to impose confidentiality in a half-baked way.

Hon. I. G. MEDCALF: I am sorry that the Minister is not prepared to concede the argument which has been put up. These exemptions go far beyond what one would normally accept in this highly sensitive area of dealing with adoption files which have always been sacrosanct in relation to the ability of any member of the public to obtain information. It will only be necessary for the Director General

or the principal officer of an adoption agency to say, "Yes, you can have a look at this file." This material has always been kept very private, and while I am not saying approval would be given indiscriminately I see no reason for the Parliament to give such a power.

I am prepared to go along with the amendment. If the Legislative Council wishes to disagree with me, that is its business.

I move an amendment to the Minister's amendment—

To delete the words—

or with the written approval of the Director-General or the principal officer of an approved adoption agency,

That allows the Minister or at least the Director General or anyone involved to act in accordance with the Act, for the purposes of the Act, or as may be directed by the Act or regulations which I am prepared to accept. The regulations, after all, must basically conform with the requirements of the Act.

I personally cannot go along with the plan of it; I would regard it as a breach of faith on my part to not oppose that part of the Minister's amendment.

I commend my amendment to the Chamber.

Further amendment on the amendment put and a division taken with the following result—

Ayes 16

Hon. C. J. Bell	Hon. Neil Oliver
Hon. V. J. Ferry	Hon. P. G. Pendal
Hon. Tom Knight	Hon. I. G. Pratt
Hon. A. A. Lewis	Hon. W. N. Stretch
Hon. G. C. MacKinnon	Hon. P. H. Wells
Hon. G. E. Masters	Hon. John Williams
Hon. I. G. Medcalf	Hon. D. J. Wordsworth
Hon. N. F. Moore	Hon. Margaret McAleer

(Teller)

Noes 15

Hon. J. M. Berinson	Hon. Robert Hetherington
Hon. J. M. Brown	Hon. Garry Kelly
Hon. E. J. Charlton	Hon. Tom McNeil
Hon. D. K. Dans	Hon. Mark Nevill
Hon. Peter Dowding	Hon. S. M. Piantadosi
Hon. Graham Edwards	Hon. Tom Stephens
Hon. Lyla Elliott	Hon. Fred McKenzie
Hon. Kay Hallahan	

(Teller)

Amendment on the amendment thus passed.

Amendment, as amended, put and passed.

Hon. P. G. PENDAL: Being a realist, I think this is a good provision otherwise we would not have it in other Statutes, particularly in relation to the Ombudsman. Whether he is a public servant or not is irrelevant.

It is an area of human activity that perhaps requires the taking of an oath more than any other I can think of, and I urge the Committee to vote for its inclusion.

I move an amendment—

To insert after line 22 the following—

24AD. (1) Before entering upon the exercise of any of their duties under this Act, the Director-General, the Registrar-General and all officers of the department and any other department of the Public Service shall each take an oath or affirmation to faithfully and impartially perform those duties and not to make any record of, or divulge or communicate, any information relating to an adopted person or the natural parents, adopting parents or relatives of an adopted person, received in the course of those duties, unless specifically authorised by this Act to do so.

(2) The oath or affirmation to be taken pursuant to subsection (1) may be taken before, and may be administered or received by, a magistrate within the meaning of the Justices Act 1902.

Amendment put and negatived.

Hon. I. G. MEDCALF: I move an amendment—

To insert after line 22 the following section—

24AD. (1) A person who does any act calculated or likely to intimidate, embarrass, ridicule or harass another person by virtue of that other person being or having been—

(a) an adopted person;

(b) a natural parent of an adopted person;

(c) an adopting parent of an adopted person;

or a relative of any of the foregoing persons is guilty of an offence against this Act.

(2) For the purposes of subsection (1) "relative" means any of the mother, father, brothers, sisters, spouses, *de facto* spouses or children of the relevant person.

Penalty: $2 500 or imprisonment for six months.

As I mentioned the other night, legislators are in a dilemma in relation to this matter. On one hand they want to assist people who genuinely are entitled to and have a need to ascertain their beginnings, so to speak, and locate their parentage; on the other hand they have a responsibility to people who may be affected by inquiries which are more than usually embarrassing in some cases. There have been a number of illustrations of that, and it is unnecessary for me to deal with them.

People who are involved in adoptions, whether adoptees, adopting parents, or the natural parents, must be protected from gossip. Gossip can be a wicked thing, and we all know that human beings are afflicted by gossip in one way or another. While supporting the principle of access to information, we must bear in mind the need to protect people from undue harassment or embarrassment, or even ridicule which has happened in some cases in the past and was totally unwarranted and unfair. It is a good idea that the Parliament be given the opportunity of vindicating this principle and providing that people affected by adoptions should not be unduly harassed by any other person. In saying that, I am not only referring to adopted persons, adopting parents, or natural parents, but also to their relatives who are limited quite specifically to include a restricted class of relatives who may be subject to unfortunate and unpleasant jibes. That is the reason for my amendment, and I ask the Chamber to support it.

Hon. PETER DOWDING: The Government does not oppose this proposal.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 27 and 28 put and passed.

Title put and passed.

Report

Bill reported, with amendments, and the report adopted.

Third Reading

Bill read a third time, on motion by Hon. Peter Dowding (Minister for Employment and Training), and returned to the Assembly with amendments.

ADJOURNMENT OF THE HOUSE: SPECIAL

HON. D. K. DANS (South Metropolitan—Leader of the House) [6.14 p.m.]: I move—

That the House at its rising adjourn until Tuesday, 26 November at 11.00 a.m.

Question put and passed.

ADJOURNMENT OF THE HOUSE: ORDINARY

HON. D. K. DANS (South Metropolitan—Leader of the House) [6.15 p.m.]: I move—

That the House do now adjourn.

Legislative Assembly: Sitting

HON. G. E. MASTERS (West—Leader of the Opposition) [6.15 p.m.]: Am I correct in understanding that the Legislative Assembly will be meeting at the same time?

Hon. D. K. Dans: To the best of my knowledge, yes.

Question put and passed.

House adjourned at 6.16 p.m.

QUESTIONS ON NOTICE

UNION

Fire Brigades Employees Union: Prosecution

388. Hon. G. E. MASTERS, to the Leader of the House representing the Premier:

Did the Premier give any assurances to the Secretary of the WA Fire Brigades Employees Union that he would not seek prosecution of the union when it was in breach of section 96F of the Industrial Arbitration Act in March 1983?

Hon. D. K. DANS replied:

The Premier advises he does not recall giving any assurance on the matter, but if the member has any concerns and raises them with the Premier, he will consider having them investigated.

411. *Postponed.*

CRIME: MICKELBERG CASE

Fingerprints: Destruction

426. Hon. P. H. LOCKYER, to the Attorney General representing the Minister for Police and Emergency Services:

The Minister has said that Raymond Mickelberg requested that his fingerprints be destroyed and that the destruction of the fingerprints took place at police headquarters on 11 June 1976.

(1) Was the request for destruction made in writing by Raymond Mickelberg?

(2) If so, would the Minister please provide me with a copy of the request?

(3) With reference to the destruction of Raymond Mickelberg's fingerprints, did the police officer who conducted the destruction complete any documentation to confirm that destruction had taken place?

(4) If documentation was completed would the Minister please provide me with a copy of the documentation?

(5) In his answer to one of my previous questions concerning the destruction of Raymond Mickelberg's fingerprints, the Minister categorically stated that Raymond's fingerprints were destroyed on 11 June 1976 at police headquarters. Therefore, would the Minister please explain why the other duplicate set of Raymond Mickelberg's fingerprints held by the Central Fingerprint Bureau, were not destroyed?

(6) Is it standard procedure when fingerprints are destroyed under the terms of section 50AA(2) of the WA Police Act, for the WA police not to also ensure that duplicate sets of the same fingerprints held by the Central Fingerprint Bureau and other State police forces are destroyed also?

(7) Would the Minister please explain in detail the procedure followed by the WA police on receipt of a request for the destruction of fingerprints where those fingerprints relate to an arrest made by the Australian Federal police.

Hon. J. M. BERINSON replied:

(1) and (2) There is no record of Raymond Mickelberg requesting, in writing, the destruction of his fingerprints.

(3) Yes.

(4) A photostat copy is supplied.

(5) State records do not indicate that the central bureau had a duplicate set of prints.

It must be appreciated that two systems operate—

(a) Where State police arrest and charge a person, two sets of fingerprints are obtained. One set of these may be transmitted to the central bureau.

(b) Where Federal police are involved, they obtain three sets of fingerprints, of which State police retain one set. The other two are retained and/or dispersed through the Federal police system. No record of their dispersal is kept by the State.

(6) In the event of fingerprints being supplied to the central bureau by State police and a subsequent acquittal or dismissal of the relevant charge, following an application under the provisions of section 50AA of the Police Act the fingerprints would be destroyed by State police and the central bureau advised to destroy its copies as well.

When the State police are not the party lodging the duplicate set of fingerprints with the central bureau, there is no obligation on the State to provide for the destruction.

(7) Commonwealth legislation does not provide for the destruction of fingerprints upon acquittal or dismissal of charges. In fairness to accused persons, although such is now found to be incorrect, their fingerprints were destroyed under provisions of section 50AA of the Police Act. In future no further fingerprints obtained in relation to Commonwealth offences will be destroyed by the State police. Any applications for destruction will now be directed to the appropriate Commonwealth authority.

HEALTH

Sexually Transmitted Diseases: Increase

437. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Health:

(1) Has the Department of Health any evidence to suggest that there is an increase in the numbers of young people catching sexually transmitted diseases?

(2) Will the Minister provide figures of the number of reported cases of sexually transmitted diseases in the following categories—

(a) young people—male;

(b) young people—female;

(c) total—male; and

(d) total—female.

Hon. D. K. DANS replied:

(1) No.

(2) These are the notifiable disease figures—

	1975	1984
(a)	1 210	804—30 and under
(b)	742	472—30 and under
(c)	1 698	1 170
(d)	950	578

1985 figures will be available in mid-January.

HEALTH: MEDICAL PRACTITIONERS

Advertising: Restrictions

438. Hon. P. H. WELLS, to the Leader of the House representing the Minister for Health:

(1) What legislative restrictions prevent a doctor from advertising?

(2) Is the Government considering bringing forward legislation to allow doctors to advertise in relation to their—

(a) location;

(b) qualifications;

(c) consultations;

(d) after-hours arrangements;

(e) interpreter service; and

(f) fees?

Hon. D. K. DANS replied:

(1) There are no legislative restrictions at present, but the Medical Board has discretionary powers to determine whether any such advertising constitutes professional misconduct.

(2) Recent amendments to the Medical Act make provision for regulations to control advertising.

439. *Postponed.*

CATERING SERVICES

Country Functions

440. Hon. W. N. STRETCH, to the Leader of the House representing the Minister for Health:

(1) Is the Health Department considering implementing stricter regulations regarding catering at country functions such as agricultural shows, ram sales, clearing sales, etc., run by local service—i.e. non-professional—organisations?

(2) If "Yes", has the Country Women's Association of WA (Inc) or other such bodies been consulted?

(3) Will the Minister outline reasons for any changes, and estimate a date for the introduction of such changes?

Hon. D. K. DANS replied:

(1) No.

(2) and (3) Not applicable.

441 and 442. *Postponed.*

HEALTH

Divers: Recompression Chamber

443. Hon. A. A. LEWIS, to the Leader of the House representing the Minister for Health:

Further to the answer to question 389, of Wednesday, 20 November 1985, why is another recompression chamber needed in WA?

Hon. D. K. DANS replied:

The need for another recompression chamber has not been established. While the facility at Garden Island is available to manage civilian as well as naval diving related injury, and access to the chamber is only by grace and favour, proposals have been put that suggest there may be a need to establish a facility to treat other non-diving related illnesses in a chamber. This extra need for hyperbaric facilities has not been fully evaluated.

QUESTIONS WITHOUT NOTICE

PRISON OFFICERS

Remand Centre: Firearms

367. Hon. P. G. PENDAL, to the Minister for Prisons:

Is it correct that the Government is considering withdrawing firearms from prison officers who work in the remand centre at Canning Vale?

Hon. J. M. BERINSON replied:

I have received no report to that effect. If the member cares to put the question on notice, I will consult with the department.

PRISONERS

Karnet: Unauthorised Leave

368. Hon. P. G. PENDAL, to the Minister for Prisons:

(1) What progress, if any, has been made in regard to the allegations which I understand were made during a television news programme earlier this week that prisoners are being allowed unauthorised leave from Karnet?

(2) Is there any substance to allegations that money is changing hands to arrange these unauthorised departures, as was alluded to during that interview?

Hon. J. M. BERINSON replied:

(1) and (2) The answer to the second part of the question will of course depend on the results of the investigation still proceeding, which is being conducted by the Prisons Department and by members of the Police Force.

PRISONERS

Karnet: Unauthorised Leave

369. Hon. P. G. PENDAL, to the Minister for Prisons:

Is the Minister prepared to disclose to the House at this stage the alleged numbers of persons involved in the Karnet unauthorised departures?

Hon. J. M. BERINSON replied:

I regard it as inappropriate to make any comment at all on these investigations until they are completed.