SP-32

ISSN 1710-9477

Legislative Assembly of Ontario

First Session, 38th Parliament

Assemblée législative de l'Ontario

Première session, 38e législature

Official Report of Debates (Hansard)

Wednesday 18 May 2005

Journal des débats (Hansard)

Mercredi 18 mai 2005

Standing committee on social policy

Comité permanent de la politique sociale

Adoption Information Disclosure Act, 2005

Loi de 2005 sur la divulgation de renseignements sur les adoptions

Chair: Mario G. Racco
Clerk: Anne Stokes

Président : Mario G. Racco
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario

Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

STANDING COMMITTEE ON SOCIAL POLICY

COMITÉ PERMANENT DE LA POLITIQUE SOCIALE

Wednesday 18 May 2005

Mercredi 18 mai 2005

The committee met at 1540 in committee room 2.

ADOPTION INFORMATION DISCLOSURE ACT, 2005

LOI DE 2005 SUR LA DIVULGATION DE RENSEIGNEMENTS SUR LES ADOPTIONS

Consideration of Bill 183, An Act respecting the disclosure of information and records to adopted persons and birth parents / Projet de loi 183, Loi traitant de la divulgation de renseignements et de dossiers aux personnes adoptées et à leurs pères ou mères de sang.

SUBCOMMITTEE REPORT

The Chair (Mr. Mario G. Racco): Good afternoon. Welcome to the meeting of the standing committee on social policy and consideration of Bill 183, An Act respecting the disclosure of information and records to adopted persons and birth parents.

Our first order of business before we commence the public hearings is a motion for adoption of the subcommittee report. I would ask anyone to please do so. We do have it on our desk.

Mr. Norman W. Sterling (Lanark–Carleton): Could I ask a question? First of all, I can't quite understand why we're not meeting in the Amethyst Room, where we would be televised and people across Ontario would be able to witness these proceedings, which are very important to as many as millions of Ontarians.

The Chair: I must say that nobody asked me this question. I didn't think about it, so I don't have an answer. Does the clerk have an answer to the question?

The Clerk of the Committee (Ms. Anne Stokes): This committee normally meets on Monday and Tuesday afternoons in committee room 1. We received a special order of the House authorizing the committee to meet outside the normally scheduled times. Committee rooms 1 and 151 are scheduled on Wednesdays and Thursdays, so I took the other committee room that was available. There was no other request to make any changes.

Mr. Sterling: Well, I'm disappointed in that we have the privacy commissioner here today.

Secondly, my two regular members of the committee are not here, but notwithstanding that, I received a copy of the report and would ask the committee to consider approving those items that are necessary to carry on business today—for instance, items 1, 2, 4, 6; item 6 would have to be changed, because I believe there's been an agreement to give the privacy commissioner 30 minutes, plus 15 minutes for responding to questions—basically those decisions that are necessary to proceed but don't necessarily terminate the hearings or the opportunity for people who might wish to make presentations in the future to contact the clerk. We can decide that tomorrow before we disperse.

Therefore, after hearing the privacy commissioner in particular, whose briefing I've already read—she points to some reasons why we might want to consider doing something other than what the subcommittee has decided.

I believe this is the second subcommittee report as well. There was a first one, which all members of the subcommittee agreed to, and then there was a second one, which only two parties agreed to.

The Chair: Mr. Sterling, just for the record—and the whips can correct me if I'm wrong—first of all, the first time a report was put together, one of the agreements was that the whips would go back to their House leaders and if there were any changes, they would bring it back, and that's exactly what happened. So in fairness, there was such an agreement with the three whips who were present.

In relation to the studio, I would be the first one who wants to be on camera. I certainly think we should be, for a number of reasons. So I do agree with what you said, but I think the clerk explained the reasons.

Nonetheless, I don't have any indications or instructions from anybody telling me that there was any change from what's in front of us. I don't have a motion. I heard what you said, Mr. Sterling, that's fine, but I need a motion. Ms. Wynne, maybe you can—

Ms. Kathleen O. Wynne (Don Valley West): Yes, I'd like to move the subcommittee report.

The Chair: It needs to be read into the record, which means you have to go over it, and then, of course, anybody can make any comments.

Ms. Wynne: Your subcommittee met on Thursday, May 12, 2005, to consider the method of proceeding on Bill 183, An Act respecting the disclosure of information and records to adopted persons and birth parents, and recommends the following:

(1) That the committee meet for the purpose of public hearings on Bill 183 in the afternoon of Wednesday, May 18, and Thursday, May 19, 2005, in Toronto.

(2) That the clerk of the committee be authorized prior to passage of the subcommittee report and prior to receiving authority from the House to place an advertisement on the Ontario parliamentary channel, the Legislative Assembly Web site and in a press release regarding the proposed meeting dates on May 18 and May 19, 2005.

(3) That the deadline for those who wish to make an oral presentation on Bill 183 be 5 p.m. on Monday, May 16, 2005.

(4) That 10 minutes be allotted to organizations and individuals in which to make their presentations.

(5) That the deadline for written submissions on Bill 183 be 6 p.m. on Thursday, May 19, 2005.

(6) That the privacy commissioner be invited to make a 15-minute presentation before the committee the afternoon of May 18, 2005, and that each caucus be allotted five minutes to respond to the commissioner's statement.

(7) That the clerk be authorized to schedule groups and individuals in consultation with the Chair, and that if there are more witnesses wishing to appear than available, the clerk will provide the subcommittee members with a list of witnesses, and each caucus will then provide the clerk with a prioritized list of witnesses to be scheduled.

(8) That the research officer provide the committee with a report on background material and a summary of witness presentations.

(9) That amendments to Bill 183 should be received by the clerk of the committee by 5 p.m. on Thursday, May 26, 2005.

(10) That the committee meet for the purpose of clause-by-clause consideration of Bill 183 on Monday, May 30, 2005, in Toronto.

(11) That the clerk of the committee, in consultation with the Chair, be authorized prior to the passage of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

Mr. Chair, I understand that there have been conversations among the House leaders, but there has been no other agreement reached.

The Chair: OK, that is what has been moved. I will open the floor for any debate on the motion.

Mr. Ted Arnott (Waterloo–Wellington): First of all, I'll preface my remarks with the statement that I supported Bill 183 in principle at second reading because I do support the idea of greater disclosure of these adoption records—in principle. If my memory is correct, I believe I supported the member for Toronto–Danforth's private member's bill—at least one of them—when it came to a vote at second reading. If I'm not mistaken, that's my recollection.

I am compelled to put some comments on the record this afternoon, because I think it's important for people to know that there were two subcommittee meetings last week. Our subcommittee met on Tuesday, May 10, and considered an approach to this bill so that we could ensure that there would be a reasonable public process for how this bill would be handled, involving, in particular, advertising of the fact that this committee is having hearings and ensuring sufficient time so that people who have an interest in this bill and want to make a presentation, either for or against the bill, would have an opportunity to do so.

I'm concerned that with this second subcommittee report—of course, we had the second subcommittee meeting on Thursday of last week—we are contemplating an expedited process for this committee dealing with the bill, in such a way that a significant number of interested people who might very well want to have a say, to have an opportunity to discuss this particular issue with this committee before we make any final decisions that may have a profound impact on people's lives, will not have the opportunity to do so.

I recognize and understand that there was notification on the parliamentary channel, but in my riding, most people don't have access to the parliamentary channel. In most cases, people who live outside of developed communities either receive their television signals through the air, by antenna, or they may have a satellite dish, and most of the satellite dish companies do not carry the legislative channel, to the best of my knowledge. So I'm concerned that there are going to be many millions of people in Ontario who may very well want to speak to this bill but won't even know that this committee is having its hearings.

In the initial subcommittee meeting of last week—again, the Tuesday meeting—we came up, as a subcommittee, with a way of dealing with this bill, as I said. We had talked about having public hearings on Monday, May 30, Tuesday, May 31 and Thursday, June 2. We were going to have extended hearings on that particular Thursday from 9 a.m. until 1 p.m., then of course breaking while the House was having its routine proceedings, and then resuming again from 3:30 to 6 p.m., if necessary, all in Toronto, but ensuring that there would be a considerable amount of time for people to make presentations.

We had tentatively agreed, subject to the agreement of the full committee, that there would be advertising in the Toronto Star, the Globe and Mail, the Toronto Sun, the National Post and a French-language daily, that there would be an advertisement in each of those newspapers to inform people that this committee would be hearing this bill. Again, this is kind of standard procedure. This isn't unusual; this is what we normally do, especially with controversial legislation where the issue becomes somewhat polarized.

We had agreed that the minister and the privacy commissioner would be invited to make a presentation and that caucuses would have an opportunity to ask questions of both the minister and the privacy commissioner. We agreed that the clerk would have an opportunity to schedule groups and individuals, in consultation with the

Chair, which again is a fairly standard procedure; that amendments to Bill 183 would be accepted by the clerk by 5 p.m. on June 6, again, after the public hearings take place, so as to ensure that there is an opportunity for us to hear the witnesses before we move the motions which will perhaps amend the bill; and that clause-by-clause consideration of Bill 183 would take place on Tuesday, June 7. So if indeed the bill was dealt with during that time frame and nothing unusual happened, most likely the bill would have been referred back to the House on June 8, again ensuring that there was a reasonable public process.

1550

I have to say that I was disappointed by the way the second subcommittee meeting went. I asked on most of the key issues that we vote on the subcommittee motions that were being brought forward by the government representative on that committee. My recollection is that I voted against most of them. I don't think there were notes taken, but I have to put that on the record because the member who was there representing the NDP, the member for Niagara Centre, in most cases, if not all cases, was supportive of what the government was proposing. But I want it on the record that I felt that because of the nature of this bill, because of the emotion on both sides, we needed to ensure that there's a reasonable public process so that we're not ramming this bill through the Legislature before people even know that it's before the Legislature.

Thinking back to my own private member's bill—and I'm glad the member for Ancaster is here—Bill 30, the Volunteer Firefighters Employment Protection Act that was before the Legislature in the year 2002, I knew that there were some firefighters on the volunteer side of things who were very supportive of my bill. I also knew that the professional firefighters' association was totally opposed to my bill, but I insisted that they be given an opportunity to make their views known at a legislative committee. I wasn't trying to ram it through in such a way that they wouldn't know what was happening or somehow ensure that they wouldn't have a chance to have their say. They should have had their say. As much as I didn't agree with what they were saying—they were totally opposed to my bill—I felt they should have an opportunity to speak at that particular standing committee. In fact, I welcomed the opportunity to have the dialogue with them. My bill was defeated, but I would still suggest that that's the way to handle a controversial bill. When you've got two significant organizations or groups in our province that are on different sides of an issue that has become somewhat polarized, there should be an opportunity for both sides to make a presentation.

I'm pleased that the privacy commissioner has been allocated time. I look forward to hearing her views because I think we'd be remiss if we don't give serious consideration to the privacy commissioner's professional opinion on this issue. Thank you, Mr. Chairman.

The Chair: Mr. Arnott, thank you. Let me see what we're going to do now.

The next person I will recognize is going to be Ms. Churley, and then Ms. Wynne. Then I'll go back to Mr. Sterling, in that order, and then of course those of you who wish to speak.

I want to remind all of us that after the privacy commissioner, we are planning to have five minutes for each party's comments, or at least that's what the agenda says, unless there are any changes. After that, we were going to start with the public at about 4 o'clock. Of course, the more we discuss the matter, the longer we'll take for the other people. The beauty of the agenda, though, is that there is no limit, which means we can stay longer if we choose to deal with today's agenda. If I can ask all of you to please keep that in mind.

We are still debating the motion. Ms. Churley, you have the floor.

Ms. Marilyn Churley (Toronto–Danforth): I agree with you, Mr Chair, that we have many people here and we need to be moving on the bill. I'd just simply like to state that I sat on the first subcommittee and, to nobody's surprise, I objected to the first proposal because of the concern—I think people did see me as a bit biased these days, for a couple of reasons: wanting to move forward with the bill, but secondly, of course, leaving that aside, I just want to put on the record that although this bill is somewhat different from mine and some amendments will be made accordingly to deal with some of them, this issue has been brought to the public before. People, many of whom are here today, have come and spoken to one of my five bills, and some of the people who are here today have been working on this issue for 20 years, or more, in some cases, and have been to committee hearings here well before we were in this place.

I just want to point out that although I hear what the member said, this is not a new issue. This is perhaps a new bill, and a government bill, but it's not like we're visiting, nor is it like the public and the stakeholder groups are visiting, and becoming aware of this issue for the first time—on the contrary.

I believe that, yes, there are different views on this, but my experience, having brought a bill before the Legislature five times and my personal experience and research and information that I've provided indicate, and polls have indicated, that the majority of Ontarians, indeed Canadians, support moving forward on this. We're well behind.

I should point out as well, in closing, that each time my bill has gone forward, the majority of members from all parties—a vast majority—have always been in support. So this is democracy at work here. We're having some public hearings, but we should move forward out of respect for those people who have been waiting for this for well over 20 years.

The Chair: Ms. Wynne.

Ms. Wynne: Just very briefly. I really don't want to take a lot of time, because people are here to speak. I just want to say that since the subcommittee meetings, there have been a number of conversations among the parties to try to find flexibility. That has not been agreed upon

by the opposition. I think we need to move ahead now because people have come to speak to us under the arrangements that were made by the subcommittee, and the less time we take on this, the better. People have come to speak to us and we should use the time for the public in the best way. So I won't be saying anything else, Mr. Chair.

The Chair: And I thank you for that, but can I go back to Mr. Sterling. Mr. Arnott, I had to recognize him first.

Mr. Sterling: OK. I just want to point out that this bill was introduced on March 29 of this year. That's not two months ago. For anyone to claim that the public is familiar with what's going on here today in huge numbers is totally false. It doesn't matter how many private members' bills I introduce or any private member introduces in this Legislature, it is not taken as seriously as a piece of government legislation. This is the first time that this particular matter has been put forward by a government.

So the whole notion that this is old hat and people know about this, people are going to be aware that this is going on, is totally false. You will see that when you hear from the privacy commissioner, who has sent her brief to us, and I've had an opportunity to read it. She brings forward numerous examples of people who have called and written to her about their concern over this bill.

My concern is about a very speedy process. I do not understand. When we have had this law for 60 years originally and 25 years since the last major amendments, why do we have to rush this through in eight or nine weeks? I don't understand the purpose of doing that, when in fact for a whole number of people in this province, lives are going to be put in jeopardy if this bill goes through without amendment.

I'll turn it over to—

The Chair: I will recognize Mr. Arnott and then Mr. Klees, who also wishes to speak. Normally, what I do is move around the parties, but if nobody wants to speak, I will continue. So, Mr. Arnott, and welcome, Mr. Jackson.

Mr. Arnott: I won't take a lot of time, but I do want to put something on the record.

This committee normally sits Mondays and Tuesdays if it has business and it needs to sit. The subcommittee meetings were last week. We have to go through this process of accepting the subcommittee report, and I had asked specifically that the committee be allowed to sit on Monday or Tuesday of this week so that we could deal with this matter, the subcommittee report, before we start any hearings that might be forthcoming as a result of the subcommittee report. There was no support from any of the other members of the subcommittee that we would have our normal meeting. So if anybody says that this little intervention by me or anybody else over here is delaying the public hearings, I want it to be known that I wanted us to deal with this on Monday or Tuesday. It requires a motion of the House to have this committee sit on any day other than Monday or Tuesday, and of course that motion was put to the House last Thursday.

The Chair: OK?

Mr. Arnott: No. By way of conclusion, I wish to move that we amend the subcommittee report, point number 7, to allow the privacy commissioner—

Interjection.

Mr. Arnott: We are asking that the subcommittee report be amended to allow the privacy commissioner 30 minutes to make her presentation today, leaving the rest the same as it is in the existing subcommittee report that we're discussing, so allowing the privacy commissioner 30 minutes instead of 15.

1600

The Chair: OK. Now that I have an amendment, the only discussion I want to hear is on the amendment, please. I had recognized Mr. Klees. Is it on the amendment?

Mr. Frank Klees (Oak Ridges): Yes.

The Chair: OK. Then I'm going to recognize you, but I will be looking to the other parties, if they wish to speak, because almost everybody in your party has spoken.

Mr. Klees: Initially, my comments were going to be to the original issue, but I'm pleased to speak to the amendment. I want to support Mr. Arnott. My personal preference would have been that the privacy commissioner be given an hour to make her presentation. I think it's extremely important that we hear from her. She brings forward a number of issues that we as legislators have a responsibility to consider. I believe that she should be free to provide that information in its fullness.

I believe the purpose of any public hearing is to ensure that we have information available to us as legislators so that we can make informed decisions regarding this legislation. Any restriction of the commissioner's time, I believe, is contrary to the very purpose that we're here for. So, Mr. Arnott having made that motion, I fully support him.

The Chair: Ms. Wynne? Again, as a reminder, only on the amendment, please.

Ms. Wynne: It is on the amendment. I'd like to read a letter into the record that has to do with this issue. This letter is from Dwight Duncan, the government House leader, to Mr. Tory, the leader of the official opposition, dated Wednesday, May 18.

"Dear Mr. Tory:

"I am writing you today in regards to committee hearings for Bill 183, An Act respecting the disclosure of information and records to adopted persons and [birth] parents.

"As you may be aware, the House leaders of all three caucuses met this afternoon at noon to deal with this bill, in addition to a number of other legislative items on the order paper. At that time, I offered to facilitate Ms. Cavoukian's request of appearing before the committee for 30 minutes, followed by five minutes of questions for each caucus. What's more, I offered to extend public hearings on Bill 183 into the week of May 30.

"I have been informed through staff that your caucus has rejected this offer.

"In addition, it is my understanding that your caucus is not prepared to co-operate on moving any legislative items forward that are before the House and/or committee.

"At this point in time, since your caucus is unwilling to provide flexibility on any legislative issue, the committee hearings will proceed as decided by the majority of the subcommittee members.

"Sincerely,

"The Honourable Dwight Duncan."

I suggest that the offer has been made, and that we should move ahead and let the public speak.

The Chair: I thank you, Ms. Wynne. I think Ms. Churley is next. I would ask that the language used be just like in the House.

Ms. Churley: I'm not quite sure what's going on, but I would like to propose that out of respect for the people—look at their faces—who are here today to give deputations, we agree to disagree in terms of the process. Here we are. We have people here who were invited to come forward today and who took time to prepare. It's very important to them that they be heard today. Some of them came from out of town to be heard. I would certainly like to appeal to all parties to hear from the public.

Interruption.

The Chair: First of all, the next person I will be recognizing is Mr. Jackson.

As the Chair, I have to run the meeting as efficiently as possible. The members have the choice to spend the time as they choose, and I must respect that. I ask the people to please understand that. I understand that it is going to be very emotional for some. Some statements will be quite emotional. Can we keep that in mind, please? At the end of the day, we have to come up with something. Mr. Jackson, you're next.

Mr. Cameron Jackson (Burlington): First of all, I am very concerned by the accusations contained in the House leader's letter. This is the second time that the House leader has alleged and, in my view, breached the standing orders in terms of referencing conduct of a member or of one of the political parties when those facts, to our knowledge, are absolutely untrue. I'm going to ask for a 10-minute recess. If you wish to raise this letter and make those outlandish, false accusations through your House leader—and this is not what you are doing; you're simply a messenger with this letter—the fact of the matter is that we wish to call a recess to speak to your House leader about this. This cannot continue to go on, this sort of guerrilla tactic of just attacking people and, quite frankly, using false information to stylize what was a legitimate request to give an additional 15 minutes.

The Chair: I would ask again that we be careful in the language we use. Now, I'm used to the municipal level, where some language is acceptable; I understand at Queen's Park it's not. I would ask those of you who are a little more familiar to please use language that is acceptable; otherwise, I will have other people intervene. I would suggest that some of the language already used is not proper, at least in the House it's not, and I think the committee should be treated the same. I have been asked for a 10-minute break.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): For what reason?

The Chair: Mr. Jackson, do you want to summarize the reason? I heard you.

Mr. Jackson: If Mr. McMeekin isn't paying attention, that's his problem. I just want to get on with the hearings, but we cannot allow an outlandish statement, which is false, to be put on the record. This is a non-debatable item. We've called for a 10-minute recess so we can speak to Mr. Duncan's office.

The Chair: I'm going to ask for consent for the 10 minutes. Is there consent?

Mr. Jackson: It's not a matter of consent.

The Chair: The clerk tells me otherwise. Is there consent? Do I have consent, yes or no? I heard a no, which means I don't have consent. At this time, I'm told by the clerk—and I'm trying to follow the books, Mr. Jackson, trust me—that I need a motion. If you want a 10-minute break, the only thing I can do is receive a motion and deal with the motion, if there is one. Is there a motion?

Mr. Jackson: We have an amendment on the floor.

The Chair: OK, so we'll deal with the amendment, then. Any more comments on the amendment? Mr. Jackson, only a minute, please.

Mr. Jackson: The amendment is very clear on the face of it, that a very large number of Ontario citizens do not have a voice at these hearings, and as a result of their not having—

Interjection.

The Chair: Mr. Jackson, please.

Mr. Jackson: Does Mr. Ramal wish me to slow down?

The Chair: Excuse me. I am the only one speaking here, with the exception of the person I recognize. Mr. Jackson, you have the floor.

Mr. Jackson: The request that was made was for 15 minutes of additional time for an individual who holds a position of responsibility, who has carriage of hundreds of letters from families that are affected by this. We've made a legitimate request. We have an outlandish, false statement by the House leader to suggest that we did not accept an arrangement that includes the motion that's before us. I respectfully request that we grant the 15 minutes in the amendment, which is all we're asking for, and that we proceed. I would much rather spend the next 15 additional minutes for Ms. Cavoukian than calling a procedural order—which I know I have the authority to call—that takes 20 minutes.

The Chair: I still have the amendment on the floor. If there are no more comments, I'm prepared to take a vote. Let's see what happens, and we can move on from there.

All those in favour of the amendment, which means that from 15 minutes we'll go to half an hour; 15 plus 15.

Mr. Jackson: Recorded vote.

Ayes

Jackson.

Nays

Churley, Craitor, McMeekin, Parsons, Ramal, Wynne.

The Chair: The amendment does not carry.

We still have the motion on the floor, as originally introduced. If there are no more comments, I'll ask for a vote.

Mr. Jackson: Now I wish to speak to the main motion. Aside from some of the concerns raised by my colleague Mr. Arnott is an additional matter that was raised with the House leader, with a certain degree of cavalier disregard. There are House rules and procedural rules that insulate a minister and their parliamentary assistant from having two, three or four bills simultaneously on the floor of the Legislature. That is there for good reason. By legislative precedent, that occurs as well for the critics. One of the reasons we were wanting to schedule and have this meeting on Monday is because it wouldn't conflict with my responsibilities. The FRO legislation, Bill 155, is going on concurrently with this committee. This is one of the rare occasions I can ever remember when we've called upon MPPs in opposition to be in two places at once.

I want that on the record, because I think it's a terrible and dangerous precedent to be setting when you divide up limited personnel—in particular the NDP, with an eight-member caucus, and the Conservative caucus as well.

The other issues that have been put on the record with respect to the unprecedented public hearings, with no public notice or advertising, are a concern, and the unprecedented cancelling of the first subcommittee meeting and moving to the second subcommittee meeting, in my view, is a flagrant abuse of the procedures.

I understand, Chair, in your position of neutrality and in your interest in moving forward on the agenda, these are matters beyond your control, but I must indicate for the record that these are serious breaches of protocol and, frankly, an inappropriate way to deal with an issue of major public concern in this province. I say that as someone who has strongly supported many of the amendments that are coming before us, but I am offended by the manner in which this is being handled by this government.

The Chair: Are there any more comments on the motion? If there are none, then I will ask—

Mr. Jackson: I am missing one of my colleagues. I'd like to request a 20-minute recess until I can secure my additional vote.

The Chair: Therefore, we will break for 20 minutes, because it has been requested. I have no choice but to break for 20 minutes. I ask all of you to be on time, please.

If I may, for those people who are waiting to speak, this is a normal procedure. Please keep that in mind. We will be proceeding when the motion is carried, whatever the—

Interruption.

The Chair: Please, no such comments are allowed in this room, regardless of whether I agree or disagree.

The committee recessed from 1613 to 1631.

The Chair: Again, good afternoon. We're reconvening. Before I recognize Ms. Wynne, I would just like to make a statement at the beginning so that there is no misunderstanding, and it applies to all of us. We are here to try to come up with a bill the best we can. It doesn't matter if you agree or disagree; it is highly unacceptable for anyone, including us and the public, to comment on or suggest anything which is not really proper. So I would ask that no one make any comments, no matter what we say. That's the way it works here. Otherwise, we'll be wasting your time. We are paid; you're not. So you'd better allow us to do our jobs the best we can.

Mr. Jackson: On a point of order, Mr. Chairman: The vote has been called.

The Chair: Yes, you are first.

Mr. Jackson: No, there's no discussion. We'll call the vote and we can move on. That's the point of order.

The Chair: On the motion as it is?

Mr. Jackson: That's why we called.

The Chair: I have the original motion in front of me. Are there no other amendments?

Ms. Wynne: Could I just be clear as to what we're voting on? I apologize. Is it the subcommittee report?

The Chair: That's right. Specifically, we're talking about 15 minutes to be given.

The Clerk of the Committee: It's on the whole subcommittee report.

The Chair: Of course, it's on the whole subcommittee report. But the section that has been debated is in fact the 15 minutes. That's what's on the floor. I've been asked to take a vote.

Mr. Jackson: I'm sorry; my understanding is that our amendment has been defeated.

The Chair: Yes.

Mr. Jackson: You've called the question on the main motion. There's no subject to debate or discuss. You call the vote. At the point I call the vote, we expect to vote. You must call the vote now.

The Chair: That's what I was doing. Anybody in favour of the motion? Anyone against the motion? The motion carries.

OFFICE OF THE INFORMATION AND PRIVACY COMMISSIONER/ONTARIO

The Chair: At this time, I will be moving to the next step. The Information and Privacy Commissioner will now make her comments. There are 15 minutes for you,

madam. I thank you for waiting. Please proceed whenever you're ready.

Dr. Ann Cavoukian: Good afternoon, Mr. Chair, ladies and gentlemen, and members of the committee. I'm very pleased to have the opportunity to address the committee today on what I consider to be a very grave matter. I'm not only here to convey my concerns, but I'm here to speak for the countless others who cannot. I'm here to speak for those whose voices have not yet been heard and who will be heard through me. I cannot do justice to these individuals' voices in 15 minutes' time. I'm joined here today by Ken Anderson, my assistant commissioner for privacy, who will be joining me in answering your questions.

Just for your information, I've been with the information and privacy commission since its inception in 1987, and I was appointed commissioner in 1997.

Let me start by being perfectly clear about one point: I am in favour of promoting openness in relation to adoption information among consenting parties, and I am not objecting to the application of the bill after the legislation takes effect, provided that clear notice of non-confidentiality is given to birth parents and adoptees. However, this bill is retroactive. It will go back in time and change agreements that were made in the past, and that is what I oppose. I object very strongly to one aspect of the retroactive nature of Bill 183, and I am seeking an amendment to the bill today. I'm here to implore you to add a sense of fairness to the retroactive nature of the bill. This will be the focus of my comments today. I refer you also to my written submission, which addresses a number of broader issues relating to the bill.

I have received countless letters, many of them handwritten—you should see them—numerous e-mails and telephone calls from very worried and traumatized Ontario citizens whose lives are being disrupted as we speak and who oppose the retroactive nature of the bill. They cannot believe that they will no longer have a way to shield their records, as they had once been promised. Surely when you say something, it should be honoured. This is one of the hallmarks of a civil society. When governments or the courts make these promises, there is a special duty that the promises be kept, especially when dealing with the most sensitive of personal information.

You may have heard from others that no promises of confidentiality were ever made to birth parents in the past. To that I say, nonsense. I concede that some promises may not have been made and that some people may not have been given any assurances of confidentiality whatsoever; I accept that. In the past, there wasn't one single, cohesive system where everyone was told exactly the same thing and all records were treated in an identical fashion. But I assure you that all of the people whom I've heard from—and whom you're about to hear from; you're going to hear their words—were all promised confidentiality. Many of them were, in fact, told that their records would be sealed permanently.

Here is a small sampling of their voices. I have to read this. The first group is from birth mothers.

"I am horrified and shocked at the adoption disclosure legislation introduced ... by the government. I am one of the 'young girls' who thought they were 'safe'.... When I signed the adoption papers some 35 years ago, I was promised in a courtroom that my identity would be protected and that no identifying information about me would ever be released. I feel betrayed by the system.

"You must vigorously defend my right to privacy. I'm so angry I'm shaking, but I can't voice my anger since I feel I must remain silent about my past. How unfair to all of us who must remain 'voiceless' that this will be retroactive. And the laughable 'no contact' notice—who will report this and make a bad situation worse?

"We need" your—she's referring to myself—"strident defence of our right to privacy to get appropriate safeguards added to this legislation.... I, for one, do not want to take the risk of destroying the life I have built.... For obvious reasons, I must remain silent and anonymous."

Another letter:

"I am most distraught that my life is going to be turned upside down, my reputation sullied, my career ruined and that my family will be in shambles, if my privacy is violated by opening up adoption files.... Birth parents deserve the protection they were promised. Adoptions were confidential and there was never any reason to believe that this trust would be desecrated.

"Having this information disclosed will be so disruptive and cause undue chaos in the lives of many, particularly for those conceived through incest, rape and prostitution. I am convinced, that in some cases, suicide will result. This proposed legislation is a total violation of trust and lacks judgment.... I cannot speak publicly nor sign my name to this letter. Living in fear...."

Another letter from a birth mother who gave up her child for adoption in the 1950s:

"In my case ... we birth mothers were promised complete confidentiality upon adoption. They (the government) assured me, that adoption records were sealed with no possibility of them being opened any time. Please consider my situation now. I am 70 years old, 40 years married. I am a mother. I am a grandmother. None of my family members are aware of what happened to me when I was young. Is it fair that after 50 years, I am faced with a disclosure that would shock and affect my whole family...? I feel that my rights of privacy, which were promised by the government, are being broken, with no consideration given to birth mothers or their feelings. I apologize for not signing my name, but as you can tell by my letter, I am a real person with real concerns regarding this new law, and I thank you for your support and your sincere understanding of this very serious matter."

Another birth mother who wanted to remain anonymous, who was raped at the age of 17, became pregnant, and gave up her child for adoption:

"I don't wish to give my name or have anyone seek me out. I don't wish to see the child. I don't know who the man was that raped me. I can't tell them anything about that man. This was way back in the 1960s....

"I was promised that my name wouldn't be disclosed, and like that article in the Star said, I would feel just ultimately betrayed.... I'm afraid that I would just simply go in the garage, and shut the garage door, and block the exhaust in my car, and end my life over this....

"I just want to tell you that I just pray to God that this nightmare will be over and, you know, I feel sorry for these children or these people that don't know who they are, but can it not be something like from this point forward the adoption issue is open, the information is open for anyone?"

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Another birth mother:

"I am one of the vulnerable minority. In my case it was 1964 when out-of-wedlock pregnancy was shameful and hidden—not the openness we see today....

"I am 69 now and my dear husband of 38 years is 76 and in fragile health. I believed the past was sealed and that I would carry the burden in my heart alone to my grave.

"My family will be devastated if the past opens up now. I just don't know how I will get through it as I am alone in this.... The minority is silent and afraid. Please continue to work to keep our privacy intact. If a 'no contact' was used it would be another cruelty for both sides—the hurt would be hard to bear."

It's signed, "One of the distraught minority."

Another letter:

"I haven't felt so distressed or isolated since 40 years ago when I was 17 and pregnant. This legislation, if passed, will have such an impact on so many families but those of us who have concealed pregnancies are powerless to write letters to the editor or speak out at meetings.... I can't begin to tell you how overwhelmed I feel.... I do so appreciate you speaking out for those of us who can't."

Another letter:

"I was assured my file and identity would be sealed always.

"It is wrong to expect we of 80 years of age and living in a much different era to conform to 21st century ideas and rules.... I do not want to relive 60 years ago. I would rather be dead. They have broken bonds of trust with birth mothers."

Another letter from a birth mother following a sexual assault:

"I was a rape victim and in 1947 I was a birth mother.... I was told by the CAS"—the children's aid society—"not to mention that I was raped. I was also told my records and file would be sealed....

"[The government has] taken away my privacy rights.... We cannot go public and speak for ourselves without exposing our privacy, which we are trying to keep, and were promised sealed records. You folks"—my office—"are the only ones who can help us."

Another letter:

"This legislation appears to be against elderly birth mothers. We are the ones that [were] told our records would be sealed and not to interfere with the adoption....

"I am over 80 years old. If they [the government] wait a few years many of us will be dead and not a bother to the government. Retroactive [application of Bill 183] is wrong. I do hope someone will speak for us who do not want it. We cannot go public because we will expose our privacy."

Another letter:

"The ... government is taking away my privacy rights by bringing in adoption disclosure retroactively. I based my life on being told my file would always be sealed....

"I am a birth mother from 1946. It is unbelievable they would go that far back to turn families upside down."

Another letter:

"I am a birth mother of 1947. It is cruel and unnecessary to go back to the 1940s and look for information. It is causing much trauma. I do not want to relive my trauma again as this is causing me to do.... I am willing to relate my health history but do not want to have identifying information retroactive."

Another letter from a concerned individual:

"There should be no retroactive adoption disclosure. It should start now so everyone is aware of this.

"It is unfair. I was promised sealed records always.

"It would be taking away our privacy rights—no government should stoop so low."

Another writes:

"I too am terrified that what I thought was a promise of privacy many years ago may be broken and my world altered, possibly irreparably."

From a birth father:

"I am one of those people (mid-70s) that is concerned with the changes the government wants to put in effect....

"All these years I kept [my paternity] to myself but after reading ... the news items I thought I would tell my wife (married 52 years), this hasn't gone well for her and myself. The last thing I wanted to happen was for my wife to answer the phone or door without knowledge of the situation. I pray that you continue to ask for non-retroactivity."

The following is from a biological father:

"In 1963 I was the father of a baby who was adopted in Ontario. When I was contacted to supply personal information about myself and family, I was reluctant to give this information. I was informed that the information would be strictly confidential, and would only be used for providing family health history for the baby, so I gave the information. I do not want any personal information about myself to be released to anyone. If this bill is passed, it will be an invasion of my privacy, and will be a breach of contract."

I'm going to read you just three more letters, from adoptees this time:

"I am an adult adoptee who was born and adopted in Ontario. I have lived all my 45-year life thinking about the decision to reveal my identity to my birth parents. I have known for some time it is not what I want, so I decided to keep my identity sealed.... So far, in my reading on the subject, yours is the only sane voice

advocating for those of us who will have our lives turned inside-out by this wretched piece of legislation."

Another adoptee:

"I ... wanted to make you aware that there is a significant number of adult adoptees who would also have their right to privacy violated with this proposed act. Unlike those who lobby for complete openness ... we have no voice....

"I am an adult adoptee who is well aware of the current adoption disclosure registry, however, have chosen not pursue a reunion as a matter of choice.... I have very grave concerns that if [my birth mother] has the right to learn my adoptive name, she can still seek me out, regardless of a no-contact request....

"Please continue to question this legislation to protect all parties in adoption from such intrusions in their lives. Legislation should not be made retroactive, therefore breaking promises and legal commitments to the parties."

Another adoptee:

"I do not wish to 'be found' by natural family members.... [a] contact veto will not work, requires me to file letters (as opposed to leaving records sealed), and even if they leave me alone, gives them way too much information about me."

Another adoptee:

"I was adopted over 26 years ago by a wonderful family who I love dearly. I found out about adoption records being made public and I almost died! I can't believe that the government would go out of their way to take away our right to privacy. Now it seems that we didn't have a right to have a say in our adoptions, and now we won't have a right to save our families from being hunted down from the very people who sent us away to begin with. I believe that an adoptee should be able to veto their records, and they stay that way until the adoptee decides differently."

I've got letters from adoptive parents. I can't read them all. This is a wonderful letter from an individual who implores you to "Halt this attack on thousands of defenceless families in Ontario who have adopted and been adopted with the clear understanding that our records will be permanently sealed and that we are free to lead our lives. We and the thousand of voiceless and defenceless adoptees and adoptive parents need the Legislature to amend this bill and to take out the retroactive aspects of this disclosure. I ask you and your colleagues to change the nature and content of the proposed bill.

"On behalf of my wife and family, thank you for your interest and compassion in this matter."

It breaks my heart reading those things to you.

The Chair: Mr. Jackson, if I can stop you, has asked me—

Mr. Jackson: Mr. Chairman, if I may, I would ask for unanimous consent to grant the commissioner an additional 15 minutes. I will yield our five minutes for questioning if that will be helpful, but she has not finished and she is one of the only lawyers coming forward to this hearing.

The Chair: I have a motion. I will ask if we agree. Agreed. You have 15 more minutes.

Dr. Cavoukian: I thank you all very much.

The solution that I am proposing to the problem of retroactivity is simply to allow certain people to say no, to be able to withdraw their consent by filing a disclosure veto. Let me be clear: I am only talking retroactively, not from this day forward—once you pass the bill, everything is open—but going into the past when promises were made that are about to be broken. This would prevent the release of adoption information, again, only for past adoptions, prior to the passage of the new law. I believe this is an appropriate mechanism which will ease the transition to openness. It will still provide the vast majority of those who seek openness with the information they want, while protecting the privacy rights of the significant minority who literally are terrified at the prospect of such disclosure. And I assure you that is no exaggeration, as I hope the letters I have just read to you have demonstrated.

There has been some confusion in the House, I think, as to just exactly what privacy is. The most important aspect of privacy is control: personal control over the uses of your personal information; control over how one's information is used and to whom it is disclosed. Freedom of choice is at the heart of privacy. Access to one's own personal information is certainly an important component of privacy, but it is not the primary consideration. Control relating to the uses of your own information is key.

The government seems to have forgotten that there are two sets of interests involved here, two sets of privacy rights which at times conflict. You can't just disregard one individual's rights in favour of another's. You can't disregard the minority because of the opposing majority.

I want to tell you, there are many in the minority I speak of who simply cannot be present at a meeting like this, who cannot express their voices to you other than through people like myself.

The charter right to equality is more than just another ground for legal debate. Rights to equal consideration and respect are fundamental values in our country. They infuse the entire charter and they animate the hopes and aspirations of Ontarians at every stage of life.

As elected members of the Legislative Assembly, you have the opportunity and, in my view, the responsibility to look at these issues from a higher vantage. I ask you to infuse this bill with consideration and respect for all those affected by an era that is now behind us, an era in which adoption was often a veil and a mark of shame. Ameliorate that suffering. Allow all of those who have worn it for so long to choose the timing of their own unveiling. That is the essence of privacy: freedom of choice and control over the uses of one's information.

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Canada's federal privacy commissioner, Mrs. Jennifer Stoddart, in her submission to this committee has stated the following:

"The rights of the child should not be an unqualified right, because we must respect the rights of others, namely those of the birth parents.... Government has a responsibility to keep its word.... In this case, the information at play is absolutely some of the most sensitive information in our society, and it was gathered under the assurance of the utmost confidentiality…," as you have just heard in the letters I read to you.

"We cannot with the stroke of a pen rewrite the history of the lives of the individuals who trusted government to keep their birth records and adoption arrangements secret. Confidentiality commitments do not expire like patent protection." They don't come with an expiry date.

I would also like to refer to the words of my colleague Mr. David Loukidelis, the Information and Privacy Commissioner for British Columbia, who has also written to me on this matter. I will read a very brief excerpt:

"Our office [in British Columbia] has consistently argued since 1995 that a birth parent or adopted person who chooses to do so should be able to protect her or his privacy. An individual should have the right to decide whether to permit her or his identity to be available to an adoptee or birth parent as the case may be. This has been the law in British Columbia for almost 10 years and I would vigorously oppose any attempt to change it. To open adoption records completely by removing an individual' s right to choose whether to protect her or his privacy would be unacceptable. It would also be a profound breach of the government's promise of confidentiality to birth parents.... I would vigorously oppose any effort to change the existing law in British Columbia."

I respectfully ask that both Mrs. Stoddart's and Mr. Loukidelis's submissions, and another letter that I will give you, from Dr. Alan Finlayson, be accepted as submissions to the committee.

Contrary to those who contend that parties to adoptions were not promised any confidentiality, I think there is clear evidence that certainly some people were indeed assured of just that: that their identities would remain private and confidential and that they would have no reason to expect that to change.

One birth mother advised me:

"These proposed changes would completely upset my life as it stands today.... I was told 20 years ago that my file was sealed and would not be opened without both consents.... I am feeling completely overwhelmed at what I may be facing in 18 months...."

I have dozens of these quotes that I can give you later from e-mails and phone calls. Numerous birth mothers have contacted my office literally in tears at the prospect of the disclosure of their identifying information, as have adoptees.

Adoptive parents have also informed us that they were told by the courts and children's aid societies that these documents and records would be permanently sealed. Surely all of these people can't be lying to us, making up these promises of confidentiality. How could anyone think such a thing? Although messages may have been varied over the years, there is clear evidence that many birth parents and adopted persons were indeed given assurances of confidentiality and that those assurances governed their lives. They relied upon those promises; they believed in them. They believed in the promises made by previous governments. How can the current government just change all that, change the lives of so many people so dramatically? How could anyone trust any government in the future to keep its promises?

It's not just my personal view that it's highly unfair to apply the new rule of openness retroactively, breaking what to many was a sacred covenant. There are many others who hold those views on the question of retroactivity. I'll just quote from one. As law professor Ruth Sullivan states in the Construction of Statutes:

"It is obvious that reaching into the past and declaring the law to be different from what it was is a serious violation of the rule of law.... The fundamental principle on which the rule of law is built is advance knowledge of the law. No matter how reasonable or benevolent retroactive legislation may be, it is inherently arbitrary for those who could not know its content when acting or making their plans. And when retroactive legislation results in a loss or disadvantage for those who relied on the previous law," like these birth parents are doing, "it is unfair as well as arbitrary. Even for persons who are not directly affected, the stability and security of the law are diminished by the ... unwarranted enactment of retroactive legislation."

I submit to you that Bill 183 is especially unfair and arbitrary because of the extreme sensitivity of the personal information it will retroactively permit to be disclosed, contrary to the wishes of many of those involved. But again, there is a simple solution to set this straight in the form of one amendment I'm seeking: Amend the bill to include a retroactive disclosure veto for adoptions that occurred prior to the passage of this legislation. That simple act alone would greatly minimize the potential for harm and correct this grave injustice that is about to be perpetrated, and that is exactly what they have done in other jurisdictions.

I'm going to refer very briefly in a moment to the only three provinces in Canada that have retroactive legislation for adoption disclosure. There are only three; all the other provinces and territories in Canada have adoption disclosure legislation that is either going forward from this date in time or has relied on the mutual consent of both parties. Consent always factors into it. British Columbia, Alberta and Newfoundland are the only provinces that have legislation that is retroactive with respect to adoption disclosure, and each of those has a disclosure veto that allows some people from the past, like those you've just heard from that I've read to you, to say no to the disclosure of their information. And very few people use that. Only 3% to 5%, in British Columbia and Alberta, have exercised the disclosure veto. So the beauty of it is, you can enact this bill, you can have a disclosure veto that protects a small group of minority rights, but a large number of files will be open and your goal will be achieved; your goal of openness will be achieved.

One of the most fundamental values in Canadian society, recognized by the Supreme Court of Canada, is that all persons and minorities are "recognized at law as human beings equally deserving of concern, respect and consideration." I accept that the current system of secrecy has had negative emotional and psychological impacts on those seeking information about birth relatives; there's no question. That's why I support the trend toward future openness. But that doesn't abrogate the rights of birth parents who were promised that their records would remain sealed.

Prior to November 1, 2004, Alberta had an adoption disclosure system that is very similar to the system that Ontario currently has in place. In a recent case—2004—an adult adoptee who was denied access to her birth registration information challenged the legislation on the basis of discrimination under Alberta's human rights legislation and subsection 15(1) of the charter. The legislation was nonetheless upheld. In upholding the law, the Alberta Court of Queen's Bench stated that it did so in part because of a pressing and substantial objection, namely "honouring the assurances and expectations of privacy or confidentiality on which birth parents have relied." The court also stated that the alternative of a contact veto would fail to honour those assurances and expectations. Finally, the court stated that the legislation did not violate the United Nations Convention on the Rights of the Child. They did an extensive examination. I urge you to refer to this case, of which I will gladly make copies available to you.

You have to be made, hopefully through me, fully aware of the emotional and psychological harm that will fall upon many parties from the retroactive application of the law. In my view, it's hard to escape the conclusion that the current bill is already having the effect of re-stigmatizing a significant minority of birth mothers and adoptees as being unworthy of equal concern, respect and consideration. Bill 183 accords no consideration to those birth parents who want or need to assert their right to privacy, which they deserve and have relied upon for so long. Similarly, it accords little consideration to adult adoptees seeking to maintain their privacy.

You might again ask, "Why haven't these people come forward? Why aren't they here?" You know the answer to that. Those who have been relying on past assurances of confidentiality, who strongly oppose the retroactive nature of the bill, are very hesitant to come forward and speak on this issue for fear of being identified. That's what they are trying to preserve: their privacy, their confidentiality. They must remain invisible. And they don't have organized groups. There aren't organizations who can file submissions, who can speak on behalf of the bill, who can appear here, who can write to MPPs. These people are scared to come forward. They have been terrified, in writing to me. I've severed all their names, if they've identified themselves. Many have contacted me anonymously. They're very, very frightened individuals, and that is why I'm here on their behalf.

I'm also well aware of the existence of the contact veto. I'm not convinced that it will be effective, nor are many of these individuals. I can give you examples of other jurisdictions. But I have to quote, and I hope you bear with me. In the words of the Honourable Norm Sterling in the House—I have to quote him; he doesn't know I'm quoting him—"They say that, to a person who contravenes the [no contact] sections of the bill, there could be a fine of not more than $50,000. Well, who's going to prosecute either their natural mother or their natural child? It really is a hoax. The non-contact provision in this adoption bill is a hoax."

1700

I couldn't agree more. It's pure fiction. I don't know if you recall, but many of the individuals who I read from said the exact same thing: It's not going to happen.

Others have suggested that a contact veto alone will not be enough, especially for those individuals who live in smaller communities. One adopted person, an adoptee living in a small, rural community and whose birth mother has been conducting a search is very worried about being watched and contacted. She wrote to me.

This adoptee said, "[You] can do a lot of things without having 'contact,' such as driving past my house, and watching me from a distance. I shouldn't have to look over my shoulder for the rest of my life."

She doesn't want to be contacted; she doesn't want anyone to see her; she doesn't want anything to do with this.

To summarize, both birth parents and adoptees involved in adoptions that occurred prior to the enactment of this legislation should have the right to prevent the disclosure of their identifying information by exercising a disclosure veto. That is the only amendment, ladies and gentlemen, that I am seeking. In my submission, I have given clauses extracted from the British Columbia, Alberta and Newfoundland statutes, which have disclosure vetoes, and we've also drafted a clause for your consideration and possible use in Ontario.

The experience in these provinces that I mentioned is that the vast majority of birth parents and adopted persons in Ontario will not file disclosure vetoes. There are low rates of exercising that option.

I also want to highlight that where a disclosure veto is filed, I fully support the provision of anonymizing, non-identifying medical, genetic and family history information being made available. I would be happy to work with the government to develop such a system as this.

In conclusion, the retroactive application of the disclosure provisions contained in this bill is an unacceptable and unfair encroachment on the privacy rights of those birth parents and adopted persons who were assured that identifying information would remain confidential; it's just wrong. I've heard from many of these individuals, they've touched my heart, and I'm speaking out on their behalf. They are begging us to change this situation, to correct a wrong before it's too late.

A disclosure veto for past adoptions is imperative to ease the transition to an open disclosure scheme and to

preserve the privacy rights of those who were assured that their confidentiality would be protected. To do less than introduce a retroactive disclosure veto would be to ignore the wishes of an entire segment of society: birth parents and adopted persons who were once promised privacy, who still want it and who have governed their entire lives according to that assurance.

In the words of the Alberta Court of Queen's Bench, "If either extreme wins, real people lose."

I thank you very much, ladies and gentlemen, for your time. We'll be glad to answer your questions.

The Chair: Thank you, Madam Commissioner. You went just above the 30 minutes, so there's no time for any questions. We thank you for waiting and expressing your views and the views of other people on the matter.

At this time, we have five minutes each for comment—

Interjection.

The Chair: That's fine. So there's none.

The first deputation would have been from the Canadian Council of Natural Mothers. They asked that we place them tomorrow.

PARENT FINDERS

The Chair: The next one will be Parent Finders.

Ms. Churley: Just a clarification: Karen Lynn had to leave because she was scheduled for 5, and I just want to be sure that everybody agrees that she can be on at 6 tomorrow. Is that agreed?

Interjection.

The Chair: Agreed. Thank you.

Ladies, you can start at any time. There's 10 minutes total, including questions, if there's time.

Ms. Patricia McCarron: My name is Patricia McCarron. I am president of Parent Finders, National Capital Region. We are a support group and a volunteer organization that helps people reunite after an adoption. We were incorporated in 1976, and since that time we have assisted over 1,200 members in contacting and reuniting with birth relatives. We have a database of over 12,000 entries, and we're part of a larger national organization, Parent Finders National, on whose behalf I am also speaking. We publish a regular newsletter, we hold public meetings and we deal with adoptees, birth parents, adoptive parents and fostered adults on a weekly basis. Ms. Cavoukian was speaking for those people who wrote in to her. I'm speaking for our members and for the adoption community.

As president of this organization, I'm here today to speak for those who cannot attend. Over 26 years we have heard from these people in terms of promoting adoption disclosure reform. We advocate the right of access to identifying information by all adult members of the adoption triangle and we believe that existing adoption legislation needs to be reformed.

There are a few issues that are not addressed in Bill 183 that are of concern to us: retroactivity, access to non-identifying information, the importance of the contact veto and providing an adult adoptee with the name of his or her putative father.

The retrospective argument has also been raised by the privacy commissioner. The promise that a birth parent would never have their information revealed is simply—you just have to understand that you can do these things without violating their privacy. You can contact birth families. You can contact birth mothers. We do it on a daily basis. You do not publish this information on the front page of the Toronto Star. You are doing this one on one, discreetly. We do it; we know how to do it. It is not a matter of making the information known to the public.

In fact, until the 1960s, adoption orders—my adoption order has my full birth name on it. There's no confidentiality. My birth mother had a very rare German name. It was not a hard thing to find her.

I'm going to skip through—you can read through all my arguments.

On a personal note, I do not need this legislation. I have been reunited for 14 years. I have been involved in this organization and I've stuck to this cause—never believing that I'd be lobbying for the next 15 years of my life—because I believe this legislation needs to be changed.

I met my birth mother in 1991 through the help of Parent Finders. She and my adoptive mother met once. They thanked each other basically for the role each played in my life. I think I'm a typical, successful adoption story. I'm gainfully employed, well educated and bilingual. I'm married and have two wonderful daughters. This legislation also affects my kids. They are as much a part of this process as I am.

My birth mother was very receptive when I first contacted her. She was sexually assaulted. For all the cases that Ms. Cavoukian has read, I'm here to tell you that someone who is born of rape can go on to lead a very normal life. I'm an adult. It wasn't the story I was looking for. It wasn't the perfect happy ending. However, I can deal with it. I can get on with my life. I can have a relationship with my birth mother. As traumatizing as it was for her at the time—and it still is today—it's OK. We can deal with this. There are support systems out there to help people deal with this.

We're always warned by well-intentioned family and friends, "What if it's rape? What if it's incest? What if it's this and that?" or my favourite: The birth father is always an axe murderer coming to get you. We expect the worst. That is what we are told. So whatever little bit of information we get, whether it's just our name, whether it's just a little bit of background information, we're so pitifully grateful for every little bit we get, and then when we finally do get the truth, it's very fulfilling and very revealing.

I'm here today to ask you to help right a very social wrong. The system has been set to default to secrecy, and I'm asking that you switch that over to openness. That's where it has to be. Thank you.

Ms. Monica Byrne: I'm going to try and be as fast as possible. Ms. Cavoukian got half an hour; I'd like a little more than four minutes.

I'm the birth mother she is defending so eloquently. I am the birth mother she's talking about. I gave birth to a child in Ontario in 1966, so I come from those days of secrecy, privacy and all the other stuff that was associated with being a birth mother then.

I was forced through this system to have to crawl and grovel to get information and find my daughter on my own. She knew nothing about adoption registries and all the other government systems. She would never have come looking for us. I married her father. I have three other children, her full siblings. We have a very positive reunion. We have the picture-perfect reunion. I like her mother; her mother likes me. We are not in a competition. This girl is both our daughters. It's normal and OK, and we're mature about it.

Since that time of finding her 18 years ago, I have worked with birth mothers. Again, when I hear the red herrings and the fearmongering that Dr. Cavoukian has spread across this province since the introduction of this bill—I know about the 81-year-old birth mothers. I've contacted them. I have been contacting over 1,100 reunions. I know what birth mothers are doing. I'm one of them; I know how to approach them. I feel it very inappropriate to read anonymous letters when I put my name out on the table. This is personal information for me.

1710

I was never offered confidentiality; I had it imposed upon me by a system. I never signed anything, I never requested it and I've never met a single birth mother, in the 18 years that I've worked in this, who asked for this kind of imposed confidentiality. No one wants his washing out on the public lawn. Everyone would like some level of privacy, but most people would like to know what happened to their children. The contact veto in this bill will protect those people. In all my years, in other jurisdictions where there is a contact veto, I have never known of people having abused that veto.

People are very disenfranchised in the adoption community. They are extremely nervous about contacting anyone. Many adoptees and birth parents know the names of the people they're looking for but do not make a move. The idea of someone knocking on your door 40 years down the line is not a reality. Those documents that we are talking about releasing only show my maiden name and address 40 years ago. In the interim, I've married, I've moved; everything's changed.

It isn't just that you get your papers and you go knock on the door. It doesn't work that way. We believe that with careful advice and guidance, people can be helped to find each other in a reasonable and civilized manner. All the red herrings in the world cannot change that truth. In England, records have been opened since 1976. It's OK, folks. It really does work. We can do it.

We've made a pathology out of this subject. This is a very normal process. These were only babies; it wasn't the plague.

The Chair: There's about a minute and a half left: 30 seconds each.

Mr. Ernie Parsons (Prince Edward–Hastings): That was very well done.

Ms. Churley: There's no time, but thank you for your presentation. I think a key point for me is that, with modern-day technology and people finding each other through other means, the irony is that within this bill there's at least a contact veto, whereas right now—

Ms. Byrne: As it stands, there is nothing.

Ms. Churley: Exactly. I could have knocked on my son's door when I found him. There was no remedy. More and more people are finding each other anyway, and now there will be a remedy. But of course, as you said, I didn't go and knock on my son's door.

Ms. Byrne: The contact veto will protect people. As it stands now, you can go and find anyone. As I said before, if you have a very odd name, it doesn't take long to go through everyone in the phone book and phone all those relatives you didn't want to know the truth and the private stuff. With a contact veto, you can at least indicate that you don't want to be contacted.

The Chair: Thank you very much for your presentation.

PHYLLIS CREIGHTON

The Chair: We are moving to the next presentation. Phyllis Creighton, please. You also have 10 minutes, madam.

Ms. Phyllis Creighton: Thank you for the privilege of speaking with you. I am a historian and ethicist, a mother, a grandmother and a wife. I've been thinking for many years about what it means not to be able to know your roots, ever since working on my 1977 book on donor insemination, and when wrestling with issues of anonymity and secrecy in the use of donor gametes on a committee of Health Canada that helped draft legislation on assisted human reproduction.

You have to grasp the facts in a complex problem for ethical reasoning. You must weigh the needs and interests of those involved in a potential conflict, and weigh them fairly. The historical context must also be understood. The values being implied must be clear and appropriate to both the situation and the policy. Here are my understandings and values.

Adoptees and birth parents both have needs for a personal identity, love, a family, a network of supportive relationships, respect for themselves as individuals and for their rights as human beings.

Birth mothers who surrendered their child did so for many reasons: social pressure because they weren't married, youth, lack of resources. For some of them, what may be at issue with disclosure is their social image: Who they seem to be is not wholly who they are. Story, status and reputation are in play. Privacy and

maintaining life unchanged is of real concern to some of them.

But the social context has radically changed over the past half-century. Single moms were shunned back then. They had transgressed social rules of chastity, of marriage as the only basis for bearing a child. With the sexual revolution in the late 1960s, this norm has been largely set aside. The acceptance of common-law relationships, donor insemination of single women and the ability of separated or divorced wives to raise their children on their own: All this has removed the stigma from single motherhood to a large extent. Bearing a child outside marriage does not matter in the way it did.

In my experience, people want to know where they come from and who their kith and kin are. Curiosity about where one's traits came from seems instinctive. I think one's identity and the meaning of one's life hinge on knowing one's parentage and on having a historical family framework. Knowing your history grounds you in this fast-changing, bewildering world. Roots are a need today. Witness the people searching provincial archives for their family tree. Knowing your family's genetic and medical history can also be of life-saving importance. Why wouldn't adoptees have all these human needs?

Who we are is tied to who we came from. Nurture shapes us, but on the basis of nature, our genetic and biological individuality. Where our own nature came from is of greatest significance to us, whatever right to that information or concern our birth mother may have. It is discriminatory that the state should have such information but keep it from adoptees. By what moral right?

As for my moral weighing scale, love, the will to seek the good of every person, is my overriding value. In policy-making, this translates as justice—fairness in treating individuals with conflicting interests—tempered by compassion.

In light of these understandings and values, I have from the start supported openness and honesty with respect to birth origins. I think people have a right to know who their birth parents were, including their names. Such knowledge is an important element of a secure identity.

For a birth mother, the information about her bearing of a child is one part of her life, not its core. Privacy may matter, but being deprived of this information is a central wound to the very being of her child. Furthermore, for many birth mothers, open records and access to birth information for their children is a real value. Their need and desire for information themselves, and for the possibility of contact, also weigh heavily in the balance for policy-making.

I think we've had the issue of privacy being respected dealt with already, so I'll skip over that paragraph. Kindness, compassion and concern for a birth mother's dignity can explain why a promise might have been given, but by what right?

For a woman, giving birth may be a momentous experience, but it is not the essence of her person. It doesn't have the significance that it has to the one born, who will live for all time with the biological link to her. If love and compassion are to be upheld in applied justice, they point to giving the one born the information about birth origins. Honesty is the foundation for trust, and it is a key principle in our society.

There is no way to ascertain the factual truth of what number of adoptees have an absolute need to know their origins—it might be small or large—but the rightness or wrongness of an action is not decided by numbers. It is clear that knowing your origins is desperately important for some adoptees. Their need is humanly understandable, and it cannot be met unless adoption records are opened in the manner that Bill 183 provides for.

1720

It goes beyond other legislation, a sign that it is ethically sound. Putting the child's best interests first has slowly, over the past half-century, come to be accepted in society and in law. You can look at my references to the UN Convention on the Rights of the Child and read legal comment on it; you can look at the Universal Declaration of Human Rights, which also provides for equality for everyone, without distinctions of birth or other status. It must be remembered that Canada is a signatory to these international legal agreements and has obligations.

When open records and access to information at maturity are established as the legal right of adoptees in future by passing this bill into law, what ethical principle could justify continuing to make second-class citizens of those already adopted? Today's adoptees would rightly have an even greater sense of grievance and despair at such a discriminatory application of moral principles, which would deprive them of hope.

Birth parents also have a right, ethically, to information about the child they surrendered for adoption. It is a serious moral issue that birth parents often have their names linger on the registry for many years while they wait in despair for information about their children.

Justice, compassion and love all dictate and validate, in my opinion, the provisions in Bill 183 for information-sharing.

As an ethicist and a mother, I think it would have been better, however, to rely on normal human restraint and responses to a mother's lack of desire for contact rather than on no-contact stipulations with penalties attached. It is hard to see a moral basis justifying such a provision. When one becomes a mother or father, the lifetime reality, the creation of a child, inescapably creates lifelong responsibilities. Surely acknowledging the reality of the procreation of the child is only part of that responsibility. I leave to policy-makers to justify on an ethical basis their limitation of that responsibility to exclude a duty to allow contact even where it is vital to the adoptee. Such deprivation can have grave consequences: suicidal ideas or action, mental disturbance, and, I note, inability to learn of late-onset medical conditions of genetic origin, information that can be essential for early diagnosis and lifesaving.

I live in hopes for growing imagination, trust and better human relationships. May Bill 183 serve these ends.

The Chair: Ms. Wynne. Thirty seconds each, please.

Ms. Wynne: Phyllis, it's nice to see you. I have a lot of respect for your wisdom.

I need your advice on how to respond to an adoptee who not only does not want to be contacted but doesn't want disclosure, because you were making the argument for the rights of the child. What about the case where there's a child who doesn't want disclosure?

Ms. Creighton: If there are reasons to fear violence—there is a clause in your bill that says there might be exceptional circumstances, and we all would understand that if violence or abuse or something truly dangerous might occur. There are moral exceptions. To every good rule, there can be a case made where justice and compassion and love would dictate a deviation.

The Chair: Ms. Churley?

Ms. Churley: Thank you for your presentation.

The privacy commissioner read some letters into the record and talked about the possibility of suicide of some birth mothers who may be found. It's my understanding—and I don't know if you wrote about this in your book—that there's a very high rate of suicide within the adoption community, higher than in the rest of the community. I guess what I'm trying to say is that when you start making those kinds of arguments, you get into the whole emotional quagmire of who's at more risk. I don't know if you covered that at all, but on both sides there are—not knowing your identity is a major, major issue with people, as I understand it.

Ms. Creighton: I wrote about artificial insemination by donor, not about adoption, and I think that we can't save everyone. It is a grave issue, and we right what wrongs we can.

The Chair: Thanks very much for your presentation.

DENBIGH PATTON
CLAYTON RUBY

The Chair: We will move to the next one. Mr. Patton.

Mr. Denbigh Patton: I do have a presentation. I've kept it short, but there is a part of it that I think could be much better expressed by my counsel, Mr. Ruby, and I've asked the clerk if he could please speak first.

The Chair: Please proceed, sir.

Mr. Clayton Ruby: Thank you, Chair. This is a debate that engenders very strong feelings, and I don't want to fan the fires, which are strong on both sides, and I can understand both sides, as I suspect many of you can. What I want to do, though, in the context where for many people, perhaps most people, automatic disclosure is great for them—there are some for whom it is tragedy, and my clients, plural, are a part of that group.

I don't want to repeat what Ms. Cavoukian said. She is an independent, impartial figure. She's one of the most important people in our governmental structure, broadly understood, and her analysis is thoughtful and careful, impartial and independent, and I agree with it. So what I want to tell you here is not that she's right, because you've heard it from her, not that it's needed, because I think you all know that too, but why it's required. It's required because the Constitution of this country in its Charter of Rights requires it, and let me explain that as simply as I can.

There are three aspects of it that are important. First, the Constitution guarantees fundamental justice and what's called "security of the person." I see there's a lawyer or two nodding—I hope not nodding off. A recent Supreme Court of Canada case, not coincidentally called "Ruby v. Privacy Commissioner," made it clear that it was not every government record that was entitled to be called part of the security of the person which you have a constitutional right to protect. It was only those intensely personal records of a nature they decided not to specify in general which qualified, but if these records are not intensely personal, then I doubt that any government records are.

Second, the right to privacy is guaranteed in section 8 of the charter. It's not there in words, but the Supreme Court of Canada and dozens of courts have said, "It's part of the search and seizure protections," that there was a generalized right of privacy vis-à-vis government for all citizens. It may be broader than the kinds of privacy we usually concern ourselves with, but that's not important today. Clearly, there's a privacy right created by previous legislative schemes where people had an expectation that this kind of information, in some cases barring exceptional circumstances, generally speaking would be kept private. That creates a right of privacy.

The third aspect is section 15, equality rights. There has been discrimination against mothers who gave their children up for adoption and children who were the product of adoption. That is lessening, as it should, and this bill is one important step in that progress. But as recently as 2004 the former Alberta legislation was before a court in a case called Pringle that the commissioner talked about. Pringle's was a Queen's Bench decision out of Alberta, and they sustained a mandatory non-disclosure provision in their old legislation. No one ever got to look at adoption records. They sustained it largely because that legislation, and I'm quoting, "was in pursuit of a pressing and substantial objective. I"—the judge said—"identify that sufficiently important objective to be the honouring of the assurances and expectations of privacy or confidentiality on which birth parents have relied." So the law has recognized privacy not only on its own, but also in this specific context: birth records.

Ms. Cavoukian pointed out—and it's on page 8 of her submission, if you still have that in front of you—that in British Columbia, Alberta and Newfoundland there is retroactive legislation similar in structure to this, but even in those provinces there are disclosure vetoes for the parties.

If the government enacts this legislation—and I am retained to challenge it if it does—I am going to court if this does not pass with the amendment that Ms. Cavoukian says is wise and that I say is required. The court is going to say, "All right. It's an infringement of section

15, the same as it was in Alberta. It may be an infringement of security of the person if Ruby's right. It may be a violation of the privacy right, if he's correct. Can we justify it? Can the government justify this infringement?"

1730

When you can look to three provinces, the only other three that have dealt with it in this way, and say that they all thought it necessary to put in this safeguard of a disclosure veto, then my submission to you is simply that the court is not going to allow it to stand without that protection for the minority who want their privacy protected. It's really required. As she points out on page 9 of her material, the numbers are small. In Alberta, under the new legislation, 5% of those who can file a disclosure veto did it. In British Columbia, it's about 3%. But let me assure you that it is vital for those people. You can't pass legislation that disregards the rights of such a large group.

A contact veto is much like the stalking laws, the criminal harassment laws. We have them on the books, but each of you in your riding office has heard cases, as I do in my office regularly, of women who say it doesn't work. The police can't enforce it; there's not enough manpower. No one can track down the anonymous phone calls, the late-night visits. That's not an adequate substitute for what privacy is. Privacy is the right to choose whether information about you gets disclosed or not, not just to the world but to anyone other than yourself.

That's my legal submission. I'm grateful for the time. My client may have some words he wants to add if there's time available.

The Chair: Two minutes, if you wish to.

Mr. Patton: My original presentation was about five minutes; my counsel has covered a great deal of it. I think I'd really just like to go on record, as an adoptee motivated enough to hire very capable counsel to help me here today, as saying that the bill purports to empower adoptees. The press release by the minister, in bringing the bill, said that we have to move into the 21st century, that secrecy is archaic and that it's all about empowering adoptees.

I'd like to be empowered, please. I am an adoptee who has spent well over 40 years knowing that I was adopted, carrying with me the decision about whether and when I might expose myself to my birth mother, my birth father or their relatives. I've always known it to be my decision; I take it seriously. I can't possibly come up with words to describe to you how it feels to learn that one day soon, as a result of this process, it may simply not be my decision to make. It is not an exaggeration to say that it is part of who I am: how I have made this decision in the past.

I'd just like to close by saying that I bring with me a really deep respect for those people who have different feelings about their adoption and different feelings about what they want to know or whom they want to be known to. I think that the basic purposes of this bill—to comply with the UN's requirement that everyone should know their birth information and to empower adoptees to obtain that information more quickly than they currently can—are truly honourable purposes, and I support them wholeheartedly. However, the bill, without a disclosure veto available to people like me, I'm sorry to say, would be much worse than the status quo.

The Chair: Thank you very much for your comments. There is no time. We thank you both for your presentation.

FASWORLD CANADA

The Chair: We'll move to the next presentation, FASworld Canada.

Mr. Jackson: Mr. Chairman, as the deputants are assembling, may I ask research, through the clerk, to contact the minister? We have not received any legal opinions that the government may have received with regard to this legislation. This matter has now been raised in committee. Without debate, I'd just have that information sought for the benefit of the committee.

The Chair: That will be done.

Ladies, you can start any time you're ready.

Ms. Bonnie Buxton: I'm Bonnie Buxton, president of FASworld Toronto. This is my daughter Colette, who is an adoptee and a survivor of a fetal alcohol spectrum disorder, FASD. I'd like to thank you for giving me the opportunity to speak out on this important issue.

Our organization works with families of children with suspected or diagnosed fetal alcohol disorders. Most of these youngsters—in fact, nearly all of them—have been adopted.

I am the adoptive mother of two young adult women who are not related by birth. They have quite different problems, which were given to them before they were born.

I'm also a journalist and author of the book Damaged Angels. I will submit this book to the committee, because it's important that you understand adoption currently in the context of fetal alcohol spectrum disorders, FASD, which may affect 70% or more of children adopted through child protection agencies in Ontario.

Youngsters with FASD have permanent neurological damage which affects learning and judgment. They are at high risk of dropping out of school early, becoming addicted to alcohol and drugs, getting into trouble with the law, becoming unemployed and homeless, and bringing more alcohol-damaged babies into the world. Diagnosis of a fetal alcohol disorder can reduce these risks, provided proper support is given to these children by families, schools and the greater community.

I'm also submitting a copy of the current Canadian guidelines on diagnosis of fetal alcohol disorders, because without confirmed information regarding the birth mother's consumption of alcohol in pregnancy, a diagnosis cannot be made.

My older daughter, Cleo, is 27 and has very little desire to meet her biological parents. Both had psychiatric problems. She has had to cope with her own seasonal affective disorder, chronic depression that worsens in the winter. Cleo doesn't know what she will find if she meets

them. I'm not sure, though, that she wants a permanent "no contact" or "no disclosure" on her records. She feels that down the road she might feel strong enough to cope with meeting one or both of them.

Colette, who's 25 and who came here with me today, has experienced invisible problems with learning and behaviour, which worsened as she grew older. We did not know that these problems were caused by her biological mother's drinking in pregnancy, although we had been informed that Colette was removed from her biological family at the age of eight months because of their alcoholism, fighting and neglect.

After consulting numerous doctors, psychologists and psychiatrists, all of whom told us we should improve our parenting skills, I saw an item on TV and instantly recognized that she was struggling with the effects of prenatal alcohol. She was 17 at the time, sliding on to the street, addicted to crack cocaine. Eventually we were able to find a geneticist who confirmed that she has alcohol-related neurodevelopmental disorder, ARND, a form of FASD.

To obtain that diagnosis, we needed confirmation of exactly how much her birth mother had drunk. Getting that information was virtually impossible under the legislation in 1997, and we managed to acquire it only by a series of very weird coincidences, which are outlined in my book. Without those coincidences, we might still be looking for answers, and she might be still on the street or dead.

Back in the 1950s, as Phyllis Creighton outlined, young, pregnant women were generally spirited away to "help their aunt" and came back a few months later. That hidden shame and pain stayed with them forever. But that has changed with the sexual revolution, as you know. In the past 30 years, most children adopted in Ontario have been removed from dysfunctional families as infants, placed in foster care, and then made crown wards. Both of my daughters came from these kinds of parents.

As I mentioned earlier, my older daughter is afraid of what she might find. This new legislation does not seem to provide for the non-identifying information currently offered by children's aid societies. Because this information is critical in assisting an adopted individual in making a decision about whether to proceed with a reunion, I strongly recommend that the new legislation ensure that this service continues in some form. As well, not having the support of a reunion social worker, which is currently being offered by the adoption disclosure register, could be a grave disservice to Cleo and her fragile biological parents if one or both of them managed to track her down.

1740

A recent screening in Alberta indicated that 50% of foster children and 70% of crown wards—youngsters available for adoption—are affected by FASD. Confirmed information regarding the birth mother's consumption of alcohol in pregnancy is needed to get a diagnosis. If that child is six, 12, 15 or even 30, this information is not available in the proposed legislation. I don't believe that this legislation offers an emergency search on medical grounds either. A caring adoptive parent of a minor will need this provision in order to obtain a diagnosis so that her child can access support from the community. Again, a trained social worker may be necessary in order to obtain accurate information. The normal response of a biological mother when asked, "How much did you drink in pregnancy?" will be, "I didn't drink," no matter how much alcohol she may have consumed.

As I understand it, the proposed legislation does little more than provide birth registry information, and not names of kinfolk. As many people are not listed in phone directories these days, tracking down biological parents is going to be extremely difficult. For example, Colette's birth father is not listed in the phone book, so I don't think we could find him today without a whole lot more background provided by an agency.

In short, I welcome legislation that removes the stigma of adoption and reduces bureaucratic red tape for those individuals seeking reunions, but I am concerned about the loss of the adoption disclosure registry as a resource for individuals and families who can't find this information on their own or who require the support of a social worker during the reunion process. I'm concerned about the loss of non-identifying information for adoptees prior to making a decision about being contacted or seeking contact. I'm particularly concerned about families of minors who require specific information regarding the biological mother's use of alcohol in pregnancy, as alcohol-affected children likely make up the majority of Ontario children adopted in recent years.

I would be pleased to consult with the committee as this legislation is fine-tuned to meet the needs of today's adoptive parents and the most vulnerable people of all: adopted children of all ages.

The Chair: Less than a minute each.

Ms. Churley: Thank you for coming forward. I just wanted, because it's such short time, to point out that you've identified two of the biggest problems with the bill. My bills actually dealt with these. The first is giving one right, the right to the original birth information, but no remedy or provision for the so-called non-identifying information. I've spoken to the minister about that, and I'll be putting forward an amendment. Perhaps the government will as well. Also, in my bills, we took away mandatory counselling but provided optional counselling. Those are two very important pieces that we need to find solutions for.

Mr. Sterling: I congratulate you for coming, Colette. I appreciate your being very brave and courageous in coming before us.

I agree with you as well: What we should be looking at in this bill is allowing more free access to medical information in a very timely way. I agree with the privacy commissioner in that regard. That's where we should be focusing our efforts.

Ms. Wynne: I just want to thank you very much for coming forward, both of you.

The Chair: Thank you. Enjoy the evening. I'm sorry if you had to wait a little longer than expected.

NICKI WEISS

The Chair: The next presentation is from Nicki Weiss.

Ms. Nicki Weiss: I think I gave you copies of my presentation, so I'm just going to read it.

As an adoptive parent, I am in full support of Bill 183. In fact, I think this bill is long overdue. I have two sons, both adopted at birth. When my eldest son, Lee, at four years old, asked me if his birth mother was dead, I replied, "No." "Well, then," he said, "why can't I see her?" I had no good answer. I wrote letters to his birth mother, Anita, via our lawyer, asking her if she would consider making our relationship more open.

When Lee was six years old, she was ready, and I am very grateful for his birth mother's courage. When Lee was seven years old, Anita and her husband were pulling out of our driveway after a visit. Lee said, "Wait a minute. I have to get my jacket." "Where are you going?" I asked. "I'm going with her. She's my real mother."

Open adoption is not without some confusion and issues. I explained to him that adoption is forever, that this is what Anita chose as best for him, and that we are the family he lives with. I explained that while he doesn't live with his grandparents or aunts or uncles either, they are part of our family and love him. We have that same relationship with Anita. Lee was able to accept this, and the issue was resolved.

This morning, I asked Lee, who is now almost 15, what he would like you, the attendees of this hearing, to know. He replied with no hesitation, "I want them to know how important it is for me to have both my families. I love you both. If I didn't know my birth mother, I would think about her all the time. I would worry. I might even be frightened. I might wonder about her obsessively, but I hardly ever think about her, because I don't have to. I'm glad I know who I look like. Her parents always tell me every time I see them. I want you to tell the committee that having a relationship with my birth family is not confusing. They are my relatives, and I need them in my life for me to be happy. If I wasn't able to know them, I might become crazy." There you have it.

Lee is a well-adjusted, bright, high-functioning, emotionally stable person. His struggles are a normal kid's struggles without the added stress of a phantom family. So far, he is a person who is integrating all parts of himself so that he is comfortable in his own skin. I would be surprised if Lee ever became a drain on our mental health system. I believe that our open relationship with his original family positively and profoundly contributes to his positive and confident outlook on the world and helps our family function normally.

Let me back up and tell you how our family got to this place. Before my husband and I adopted, we thought long and hard about the kind of relationship we wanted with the birth family and about the kind of information I thought our kids would want. Common sense told me that information—good, bad or neutral—was preferable to no information, and that identifying information, preferably with some sort of communication with the birth family, would make the most sense for us.

When I heard about the incredible frustration experienced by adoptees and birth parents, the disrespect shown toward those searching for their original families, and the long wait time in trying to get some information through the adoption registry, I was appalled. It made me sad to think that our government might deny or make it difficult for my children to obtain information about themselves that is rightfully theirs. People can deal with what they know, no matter how painful the information. They cannot deal with what they don't know. So my husband and I decided to go the private adoption route in the hope of circumventing the hassles of the adoption registry. Obviously, we were successful.

Adoption is a normal and common way to make a family. I am unwilling to buy into the barriers, like the barriers to information or the barriers to access, that people put in our way for our own good. These barriers promote adoption as abnormal, as somehow shameful. This in no way describes my outlook. I see adoptive parents and birth parents as family. I do not feel threatened by my children's birth families. I have enormous respect for the difficult and courageous decisions they made.

I see my children's birth parents as our in-laws. As in any family, adoptive or not, you don't choose your in-laws, you may or may not like them, and you both love the same child. Some families get along with their in-laws; some do not. In the end, it doesn't really matter. What does matter is that the children have unimpeded access to information about both families. It does not make sense, because one family in the triad might be nervous about the other's existence, to deny individuals their basic need to know about their origins and the freedom to choose whether or not they want to become involved with each other.

When you look at families today, you often see kids with two, three and four sets of parents: stepfamilies, blended families, half-brothers, half-sisters, and so on. These kids have unimpeded access to information just by the mere fact that they were born into their families. Their parents, wherever they might be in that chain, also have access to information and access to each other. All they have to do is ask. The complexities of these families, while challenging, are normal.

Adoptive families belong to this same group of complex, challenging and normal families. We are asking the community and the law to also see it this way. I urge you to amend the law in favour of easy access to information.

1750

The Chair: Thank you, madam. There is about four and a half minutes. Mr. Arnott, do you have any questions?

Mr. Arnott: Thank you very much for your presentation. I have no questions.

The Chair: Mr. McMeekin?

Mr. McMeekin: Thanks very much for your presentation. I'm by training a social worker who's done some family counselling. I just want to pick up on what I think was the general thrust of your presentation. I've heard it elsewhere: that there can be a pathology involved in this whole dynamic of adoption, and that often that pathology, from my limited experience with issues like this, can potentially be exacerbated when people are denied information about their past.

Somebody said earlier that there's an assumption by someone adopted that "My dad is an axe murderer," or a serial rapist or whatever. In the absence of the ability to ascertain a more truthful perspective, one goes through life always believing the worst about themselves. Is that part of what you're trying to say to us?

Ms. Weiss: Yes. I believe that if you don't have information, you can catastrophize to the worst. You can create a fantasy world that you start living in, and that really doesn't help. People are people, and most people are not axe murderers. Most people are just regular people trying to get on with their lives. When you don't have access to information, you make up all kinds of stuff and then make decisions about your life based on that made-up stuff. I think it makes people crazy.

Mr. McMeekin: I appreciate your sharing a real story with us today.

The Chair: Ms. Churley, you have a minute and a half.

Ms. Churley: Thank you for coming forward again; I remember the last time we had hearings on one of my bills. The chord you struck with me was that after I found my son, we found his birth father. He came back after visiting him in BC with a photograph of his father's little tiny face in his high school soccer team or something and proudly said to me, "Can you find my birth father in there?" I was frantically trying to look and I couldn't recognize him. He pointed, and looked really disappointed. "That's him right there. Don't I look just like him?" It really struck me then how important that was to him, as much as he loves his adoptive parents. They are his parents.

That's the first time it even struck me how important it was for him to know that he looked like somebody. I think that most people take it for granted. We don't grasp, if you grow up and don't know you've got your grandpa's nose or whatever, how important that is to your identity and self-esteem.

Ms. Weiss: Yes, I think it's really important. I have one son who has an open adoption and another one who has a little bit of an open adoption. It's everything to them to know that they have some connection to their original family, whether they look like them, or—I was just saying to Lee's birth mother's sister the other day that Lee loves young children. He's a great role model for young kids. She said, "He's just like his birth mother." I thought, "That's hereditary?" But that's another piece of information that I can pass along. He's got real roots. It's very important to him.

The Chair: Thank you very much again for your presentation.

DAVID JOY

The Chair: We'll move on to David Joy.

Mr. David Joy: Good afternoon. Thank you for having me here. My name is David Joy. I'm an adoptee. I was born in Toronto. I am proud to say that I'm a pretty reasonable guy who's done pretty well for himself as a result of an amazing family. I have, as a result, used the foundation of love that I've grown up with to start my own family. I'm here before you to say I am really no different than anybody else in this room, and I want the right to say no. I believe that is my right, and I believe Mr. Ruby articulated it very succinctly.

I would like to say that I am completely in favour of a progressive bill, a bill that deals with the issues that you've heard before you, the issues of fetal alcohol syndrome that didn't exist to the extent when I was adopted 40 years ago.

I completely sympathize with the women 40, 50, 60 years ago who were forced, were stigmatized, were shunted aside to their aunt's farmhouse or whatever story was concocted to deal with the issue.

I also quite realistically understand that, as a result of the sexual revolution, I wouldn't be here if I was 20—most probably not: contraception, legalized abortion—but I'm just prior to that. I'm 42.

I have to say that I truly believe that I should have the same rights as everyone sitting around this table. The idea of someone telling me that "no contact," the way that it is enshrined in the current proposed legislation, will satisfy my need for privacy is totally off base. Just to be impolite, they are off base. If I wished to exercise my right to be contacted, I would join the registry, as have many other people, but I don't wish to do that.

I am fully integrated. I am David Joy. I am part of the family Joy. I share their history, as it is mine. I have given that history to my children. I have a mother. I don't desire the law to dictate to me that I should have to have somebody else be my mother unless I choose. I have one mother; I have one father. It's a great situation and I truly implore you to allow me my privacy by saying, "No. I wish to say no."

I don't know that many people here realize, unless you're adopted, that if you truly look at the legislation and believe in it, people like myself have been overlooked—people who are normal, sane, non-stigmatized, happy, well-adjusted people. I found out I was adopted at around age five. It was discussed between ages five and eight. I was quite happy with it. I knew what it meant. My mother made a very strong point of explaining to me the difference between natural birth and adoption, and she did it with such love.

I can't tell you. It's a very successful situation that I'm in. I truly just implore you. That's my only point that I want to make here today. I'm open to questions, but I just

want you to enshrine my privacy in the new bill. It is not protected under the "no contact."

Thank you.

The Chair: Thank you, Mr. Joy. We'll have two minutes each for questioning. Anyone from the government side?

Mr. Parsons: I understand what you're saying. We're adoptive parents. I understand what you're saying about your right to that.

Here's my struggle, and I need some help from you: We have adopted children. I'm getting up there in years, and as I get older, I get more interested in my birth family and my parents and their parents, and their grandparents. I go back and I look at photographs of my great-great-grandparents. I can see me in them, and that means something to me. So I understand.

I'm an engineer, where there's a right or wrong, and I'm having trouble getting a right or wrong on this issue. There's something in between. As I respect your right to not have contact, I can understand our adopted children's right to say, "I want to see my birth parent. I have roots. I have blood. I have family back there." So my struggle is, whose right supersedes the other's? I'd like to think that if my children say, "It's really, really important to me," I would be unhappy if someone blocked them from seeing their family history, because there is something to blood. There is something to that link. So tell me how I would explain to them that, although they really want to do it, they can't. I think they have certain fundamental rights, too.

1800

Mr. Joy: I'm not going to disagree with that at all. I think you make a very valid point. I won't belittle it in any way. But I will say this: Their rights and my rights are equal under the law.

There is a registry. There are approximately a quarter of a million people like myself, like your children, in this province. Only 57,000 people joined the registry in its existence, and it has been going on for quite a number of years. Out of those 57,000, how many are actually adoptees and how many are birth parents and what have you? It actually comprises a very small group of people out of a quarter of a million people who actually wish contact. So I'm kind of astounded that that has been overlooked, that I represent part of a silent majority that really needs our right protected until we're ready to go forward.

So your point is valid. But there is a registration system, and one can only hope, through public encouragement, that everybody who wants to participate in the registration system can.

Mr. Sterling: If the government was willing to accept an amendment which gave you that right of non-disclosure, as they have in Alberta, BC and Newfoundland—I believe in the British Columbia legislation, there are some limitations. The non-disclosure comes off after you pass away. Do you have any comments on that? If we go to that kind of disclosure debate, what would your position on that be?

Mr. Joy: You mean an intergenerational problem of non-disclosure?

Mr. Sterling: Yes.

Mr. Joy: That's interesting. I actually discussed the point of my adoption with my children, so they're aware that Daddy's adopted. They are six years old. They're cognizant. They're very intelligent children. They think it's fascinating. I don't have a real problem with it, to tell you the truth.

Mr. Sterling: Would you want them to have access to those records, if they so desired, after you've passed away?

Mr. Joy: Certainly. They're individuals. It's their choice.

The Chair: Mr. Parsons, I have a couple of minutes, if you still have questions.

Mr. Parsons: It's a comment that I've got to phrase in the form of a question—like on Jeopardy. I was on a CAS board for 25 years. I think one of the reasons the numbers were low—and I have no empirical evidence—is that there certainly was a sense in the community that that system didn't work. There was no use registering, because it was going to take five years, 10 years, to trace them. The resources weren't there, the energies weren't there, to locate them. So I'm certainly aware of numbers who said, "There's no point in this. I'm going to pursue it another way, because I'm at an age where my birth parents may not even be alive, so time is of the essence." So I think the numbers are a little artificially low on the registry.

Mr. Joy: I agree, but I also believe—and I think you might agree with me, too—that the numbers that are being moved around the table are a little bit artificial to suit different arguments. I put that forward as a comment on that. I am just given the information that the government gives me. That's it.

There are also no studies on how the adoptees are reacting when their right is removed. There are no statistics on a lot of this stuff. That's why I want the right to say no. I want control, just like everybody else around here.

The Chair: I still have a minute, if there are any questions.

Ms. Wynne: David, if the driver behind this legislation is the right of the child to know, would your disclosure amendment be a symmetrical one, so that the right to veto disclosure would be extended to both birth parents and adoptees?

Mr. Joy: Absolutely. You're going to have to understand something about me. Fundamentally, it's entrenched in my system to be as balanced and fair as I can, brought up by the parents that I have. I truly try to be impartial toward everyone.

I completely understand part of the mechanism that is driving this legislation. There was a serious social wrong committed several decades ago, and they're trying to right it right now. But two rights do not make a wrong. I believe in their right to say no, too. If I'm asking for the right to say no, they certainly should be accorded the same right. Right now, I'm allowed access to my medical

information if I apply. I would like that to be carried forward.

Ms. Wynne: So the right of the child, for you, doesn't supersede the right of the birth parent?

Mr. Joy: No, but it certainly shouldn't be the other way around either—absolutely not. I feel that's part of what is being proposed through this current legislation, that the birth parent's right is about to supersede my right. That's totally unbalanced. I'm an adult.

The Chair: Thanks very much, Mr. Joy, for your comments.

LONDON COALITION OF ADOPTIVE FAMILIES

The Chair: We'll move on next to the London Coalition of Adoptive Families. There is some noise, but I think it's better, so we can have some fresh air. If the noise is disturbing you, we can close the window.

Ms. Paula Schuck: Or I can ask them to stop.

The Chair: Can you ask them to stop? That would be better. Please proceed. Just shout from here if you can. You can start any time you're ready.

Ms. Schuck: My name is Paula Schuck. I'm with the London Coalition of Adoptive Families. Allow me to begin by saying that we, the London Coalition of Adoptive Families, support much of the Adoption Information Disclosure Act. We applaud the spirit in which it's being offered. We're not philosophically opposed to this bill; our interest lies in making it better for the purposes of our children.

We support openness and honesty in adoption. Some of the members of this coalition are biological parents; some have fostered children for years. We are all adoptive parents. We all practise what we preach, and we do not practise secrecy. We tell our children their adoption stories regularly. We read adoption books to them. We answer their questions as honestly as we are able. We love our children deeply. Like most parents, we fight for them when we must. This is one of those occasions where we feel we must.

We believe section 48.4 of this bill doesn't go far enough to protect children like ours whose birth parents have a persistent and violent history. We want to see this section amended to keep our children safe, not only as toddlers, preschoolers and teenagers, but through the rest of their lives. We, as a society, have an obligation to protect victims of abuse and violence from further abuse.

Adoption in the last 25 years has changed dramatically. In the past, the majority of children who arrived at adoption were made crown wards because they were relinquished by a birth mother who made an adoption plan. Those were the days when it was not only possible but commonplace to adopt a healthy infant. Those days are long gone.

Today, we have an increasing number of children who are apprehended from violent homes—children like my own. Some of these children have been apprehended by Ontario's children's aid agencies as victims of sexual, physical or emotional abuse and neglect. Many were abused in utero by constant exposure to drugs and alcohol. These are hurt children, damaged children, children taken into care out of concern for their safety. These safety concerns do not vanish when our children turn 18 or 19. I think most psychologists would agree that an abusive parent can maintain control over a child at pretty much any stage of their life.

As the current legislation is written, the Ontario government would automatically pass on copies of birth and adoption records to adults adopted as children when they reach the age of 18. The proposed new legislation would see to it that biological parents receive identifying information with the adoptee's adoption record and adoptive surname. This means that when my youngest daughter turns 19, her biological parents—drug addicts with criminal records, which include sexual offences and murder—can essentially pick up where they left off. They would be given the original adoption order with her name on it and, armed with that information, could quite easily find her address. Think about it this way: If an abused spouse has a restraining order out against her husband and she's protected for years by the courts and police, do we suddenly release her name to her abuser at the age of 65?

In answer to Ontario's adoptees, the provincial government says, "Prove to us that your safety is compromised by our forced disclosure and apply to the Child and Family Services Review Board. We will then consider your case." In other words, the onus is on the adoptee. We don't believe this is an appropriate burden to place on an 18-year-old, especially one who was initially brought into care because of these persistent negative behaviours by birth parents.

We don't believe this solution is good enough for my daughter who, at one year old, may face a lifetime of uphill battles developmentally, physically and psychologically because of drug abuse sustained in utero. My youngest daughter is by no means an isolated example. Her social history is pretty representative of a vast number of Ontario's adoptees.

1810

We don't believe it's fair or humane to ask a child to stand before a panel of strangers and explicitly detail sexual, emotional or physical abuse. How devastating would this be to a young person, adopted as a toddler, who was sexually abused? Is an adoptee expected to celebrate their 18th birthday and then drive to Toronto to say, "By the way, I wish no contact ever with the person who gave birth to me because she stabbed my father 20 times while I lay in my crib upstairs"? How can anyone expect a young man, barely out of high school, to tell a tribunal of unfamiliar faces that he went to sleep every night of his childhood fearing that the mommy who beat him until he was hospitalized might somehow still find him in his new home? How many times do our children have to be victimized?

The London Coalition of Adoptive Families is proposing that section 48.4 be amended to allow the province's children's aid agencies to place a non-disclosure order on

file where the birth family has shown a persistent history of violence. We trust that adoption workers could do this at the point of adoption. This removes the onus from our young people in order to protect them from unwanted contact.

The London Coalition of Adoptive Families would like to thank you for this opportunity to address the committee today.

The Chair: Thank you very much. We still have about three and a half minutes. Does anybody have any more comments from your side? None? Ms. Churley, do you want a minute plus?

Ms. Churley: Thanks for your presentation. I had some calls about this issue. Is this the section right here? I don't have my glasses.

Section 48.4(1): "Any of the following persons may apply to the Child and Family Services Review Board, in accordance with the regulations," which, of course, still have to be written, "for an order directing the Registrar General not to give a birth parent the information described in subsection 48.2(1)...." Then it goes on, as I understand it, to deal with some of the issues you raise. I take it you feel that's not strong enough, even when your children become adults.

Ms. Wendy Conforzi: The way it's written is that the child would have to put it on at the age of 18. They would have to go before the committee to state why they were concerned for their safety and what their concerns were. Our concern is, do we have to tell our children all through their upbringing of the violent acts committed by their parents? They know their parents had problems, they know they had issues, but we have to stress their safety concerns. Do you raise them with that knowledge, or do you give it to them for their 18th birthday? "You have to go to Toronto because...."

Ms. Churley: If I could just follow up, in that case, if they wanted to get the information once they were an adult, they could—

Ms. Conforzi: If they want to do a search at the age of 18, if they're ready at that point, I'm certainly fine for the child to do that. My concern is, if the child is not in a space where they want to—and I see it as an imposition by a birth family that already violated a lot of these children's rights—if the child doesn't want to be contacted by them, they should have a right to have that happen, but they shouldn't have to put the non-disclosure on themselves. It should automatically be there for these specific children.

Ms. Churley: I see what you're saying.

The Chair: Thank you. Madam, could you identify yourself for the record.

Ms. Conforzi: I'm Wendy Conforzi, and an adoptive parent as well.

The Chair: Mr. Jackson, a minute, please.

Mr. Jackson: Thank you for your compelling presentation. I'm generally supportive of open adoption records but I am painfully aware, personally, of violations of privacy matters. So I'm struggling with some of this legislation, but in principle I support it. I suspect your presentation resembles my view of what we should be doing here.

I want to thank you for presenting this notion about expecting a child under the age of 18 to confront this issue. So I'm going to ask you an obscure question, and that is about the level of counselling support that we make available. Nobody's raised this issue about consequences. It strikes me that we have circumstances in our society where there's extreme trauma, extreme stress and distress, and emotional difficulty. Is there any role, in your view, for assisting families who go through this process with counselling?

I'm trying to think ahead. If the Liberals use their majority to impose this legislation, should there not be some safety net to assist those individuals? We've heard from Ms. Cavoukian about people who are potentially suicidal, and you've raised a whole other group of young adults who are having to question their own self-confidence, having now to confront their circumstances. Nobody's really talked about this. When only one jurisdiction in the world is doing it, we shouldn't expect there to be a large body of knowledge of how to work with it. Could you comment?

The Chair: Briefly, madam, please.

Ms. Schuck: I believe the counselling is crucial. Taking away that piece is a terrible mistake. We need to fund counselling for years of—say my daughter goes searching 18 years from now. I would like to think that, regardless, there will be some supports other than just myself and my husband and our immediate family.

The Chair: Ms. Wynne.

Ms. Wynne: Just very quickly. I just wanted to be clear. What you're suggesting is, then, that there would be an automatic no-disclosure order on situations where there's a violent birth family and that that would be the default until the adult decided to remove the no-disclosure order?

Ms. Conforzi: Or actually the child wouldn't even need to remove it. They could initiate a search on their own. They could access the information on their own. I guess in one format we were looking at it that if the birth family wanted to, there could be a registry where they could put their information, so when the child began a search, say a birth mother had changed her name or the father had moved somewhere else, there could be some type of registry where they could put in that information so that when the child felt ready to search for the family, they could easily access the new information on the family. That is one way that we were thinking of having it work.

Ms. Wynne: Have you written out your presentation?

Ms. Conforzi: We have.

The Chair: Yes. We also received it, I believe, in the mail, didn't we? It's a matter of record.

Ms. Wynne: Thank you.

The Chair: We thank you for your presentation. Bon voyage back to London.

LESLIE WAGNER

The Chair: We'll move on to the next presentation: Leslie Wagner, social service worker, please.

Ms. Leslie Wagner: Dear standing committee: I'd first like to say that I am a natural mother and I've never abused either of my children. I think that's important for you to know.

It was almost four years ago that I stood before the committee in support of Bill 77 to open adoption records. At that time, I was in my fifth year of searching for my son. I'm very pleased to announce that my son and I reunited on February 21, 2004. Anne Patterson, a private investigator and an adopted adult, located him. My son and I continue to develop a significant relationship determined and defined by ourselves. Our reunion has allowed us to begin the healing process that a closed adoption system imposed upon us. If the current system flowed flawlessly, none of us would be here today. My goal in sharing my personal experience is to accomplish a solution-focused review.

It is very important that the committee recognizes that the breach of confidentiality supposedly promised to natural parents is a myth. We have asked those who insist that opening adoption records will break a promise made to natural parents ensuring anonymity to produce such documentation. To date, no one has uncovered such a document. Anyone who has researched the history of adoption will discover that adoption records were sealed in 1927 due to appeals from adoptive parents. Prior to 1970, birth surnames were revealed on the adoption orders given to adopting parents. This clearly debunks any promise of confidentiality.

Imposing the confidentiality myth in the vein of protection from the government adds insult to injury. What this implies is that I, or all natural parents, live in shame and secrecy for having a child out of wedlock. What it does to an adopted person is perpetuate that their existence should be regarded as shameful and that they are somehow a threat to their natural-born families. This greatly contributes to producing a negative impact on one's self-esteem. Closed adoption records confiscate an adopted person's natural-born identity, predisposition to medical conditions and the fundamental nature of who they are.

In a democratic society, we all have the right to freely choose and define our relationships with any person. Government intervention in a closed adoption system continues to infantilize adopted adults and their natural-born families. This archaic framework enforces a governing body to deny me the right to build relationships with anyone of my choosing. Each adoption story is as individual as those involved, yet current policy is blanketed by one law prohibiting access to information pertaining to our own lives. This fails to recognize our individuality within society and infringes upon our basic human rights.

1820

Guilt and shame were the tools used to have us surrender our parental rights under the guise of being virtuous and doing the right thing for the baby. There appears to be no accountability or penalty set for social workers practising unethical methods. This area must be explored and appropriate consequences enforced.

Current adoption practice permits social workers to facilitate both adoptive parents and natural parents simultaneously. Since the livelihood of adoption agencies relies on the revenues incurred by adopting parents in obtaining a child, a conflict of interest is generated. Removing the financial gains for adoption agencies could deter the discreet motivations agencies use to achieve relinquishment from natural parents. Any kind of monetary exchange to adopt a child should be abolished throughout this country.

We are undeniably an unbalanced society when we accept and support a system that profits financially on any single mother's struggle and lifelong grief of losing one's child to adoption. Our role needs to be assistive in family preservation. Should a mother find herself contemplating adoption, she must be provided with a support team. These professionals would work solely to advocate on her behalf, independent from any adoption agency. The mother must be given written, accurate information regarding the truth about the long-term ramifications adoption can have on herself and her child. A policy deficient of this gives a misleading representation of the effects of adoption. This contributes to the one perception depicted of adoption as being only a wonderful panacea.

Over the last decade, I have experienced first-hand the struggle within the adoption disclosure registry, ADR, to assist the adoption community in a sensitive, timely and skilful manner. In becoming a social worker, I prepared my thesis on adoption and met with a worker at the ADR. I discovered that they have employed adoptive parents but I could not say if there are any natural parents or adopted adults employed by them. It is absolutely essential to implement representation of all parties impacted by adoption. Best practice would recommend establishing a new agency once records are open. Caseworkers would need focused sensitivity training and must support openness in adoption.

Bill 183 will grant us identifying information. This is great news. I do have concerns regarding the omission of access to non-identifying information. The adoption community has become quite savvy with the crumbs of information we struggle to obtain. However, our ultimate goal is to eliminate the inconsistencies we experience when actively searching for our loved ones. Accurate non-identifying information is needed to piece together the puzzle.

I ask everyone here to imagine how you would react if a social worker informed you in a self-righteous and condescending manner that you have no right to access information pertaining directly to yourself, yet the social worker can study it at any time in a leisurely and unrestricted manner.

I cannot articulate the devastating result this daily practice by social workers executes upon the human psyche. You feel as though you will ultimately find yourself seeking psychiatric treatment because of the injustice, misuse of power and vilification a closed adoption system creates. Natural parents have endured cruel and unusual punishment for supposedly ensuring a better life for our children. These contradictions are very confusing and detrimental.

The large fine imposed in the bill implies the government views those adopted and their natural families as deviants and potential stalkers. Surely current stalking laws will encompass the unfounded concern that adopted adults and natural families will routinely violate this existing law.

Adoptive parents, natural parents, or anyone opposing Bill 183 have only their own personal agendas they need to examine, but no longer at the sacrifice of those who embrace their realities, as sensitive as they might be.

Bill 183 contains no disclosure veto, and it should be passed without one. Disclosure vetoes are cruel, punitive and unnecessary. Those who are adopted never had a voice or a choice regarding their adoption. It is time we give this to them.

Finally, if the bill is not retroactive, we should all just go home now and start the process over again. The legislation is bogus without retroactivity; it's as simple as that.

Seventy-eight years, all of our lifetimes, is a long enough sentence to serve for the crime of being adopted or surrendering one's child for adoption. I implore the committee to provide our community with open adoption records and allow us to form our own choices in our lives.

I'm grateful to Sandra Pupatello, Marilyn Churley, the Liberal and New Democratic parties, and the members of COAR.

The Chair: You used the 10 minutes. We thank you for your presentation.

JOYCE ARMSTRONG

The Chair: We'll move on to the next presentation, from Joyce Armstrong. Ms. Armstrong, you have a total of 10 minutes.

Ms. Joyce Armstrong: I'm someone who has been searching for 23 years for my 55-year-old adopted sister. The main reason I'm here today is that if the bill goes through, I'm hoping and praying that a change can be made for my benefit. The fact that information will only be given out to the birth mothers—in my case, my mother has been dead since 1982. I'm hoping that the wording can be changed so that I, the only sibling left, can be given the information that I need to try to find my sister.

I'd like to read just a little bit of a letter that I sent to a few of the ministers:

"Please! Can you help me find my adopted sister before I die? I am a 57-year-old grandmother who desperately wants to meet my 55-year-old sister, Rita Catherine.

"I grew up an only child in my grandfather's house in Toronto; just me, my single mom and my Grampy. I always felt kind of lonely as a child—now I think I know why.

"I was never given any information about who my father was and this has also been a very painful subject for me—knowing that he is probably deceased by now and I will never even get to see his face or to know my paternal nationality.

"My mother and I were always very close, but two months after her death in 1982, I learned she had taken her lifelong secret to her grave. A friend of hers called me and asked, 'Did your mother ever tell you anything about your sister?' My heart almost stopped, then I lied to her and said, 'Yes, but not much. What do you know?' She said that two years after my birth, my mother had another baby girl but my grandfather had forced her to have that baby adopted. My mom's first 'mistake' (me) was embarrassing enough for him, but a second child was totally out of the question and I guess not welcome in his house—because 'What will the neighbours think?!' I loved my mother and grandfather very much, but now I am angry at them (even in death) for getting rid of my sister!

"Needless to say, I was totally shocked that day on the phone for I was still grieving the loss of my mom. So, still crying, I called my priest and was shocked again when he advised me not to try a search for her because my search could possibly lead to a graveyard! Of course I ignored his warning and called the children's aid society. All they told me was that Rita Catherine was born at St. Joseph's Hospital on June 21, 1950, and the couple who adopted her lived somewhere just outside of Toronto and had a young son. After that, I did register with the adoption disclosure registry"—in 1982 or early 1983—"in the hope that if Rita ever finds out she was adopted and comes looking for her birth mother, that then and only then will she and I be matched together.

"Back in June of 1983, I placed an ad in the paper: 'Happy Birthday, Rita Catherine, born June 21, 1950. Your birth sister is desperately wanting to find you.' But no luck. Many times in the past, when I have met someone named Rita (of the approximate age of my sister) I ask when their birth date is"—but once again, no luck.

1830

"I sadly came to the conclusion many years ago that unless the present archaic adoption laws can be changed in my lifetime, or that I could win a lottery and promptly hire an investigator, that probably, and unfairly, I will never experience the great joy of seeing her face for the first time. I agree that for recent"—oh, I'm going to leave that out.

"But after many years have passed, such as in my case, where no minor children are involved and especially where the adoptive parents are probably deceased,

then we, my sister and I, both should have the legal right to know each other for love's sake.

"Even on that very first day I learned about her, for some strange reason I kept imagining a scene in a church where two elderly ladies in wheelchairs have been brought to meet for the very first time just when they are close to death. What a sad waste of precious years together that would be.

"Please don't make me wait any longer. I am not well, like my mom, who died at age 67 from her extreme high blood pressure. I also take two kinds of pills per day to try and control my blood pressure....

"Meeting my sister after 55 years certainly would be a highlight and a most miraculous and wonderful day for me.

"I am begging that the adoption disclosure bill will include me, a sibling, so that helpful information might be given to siblings, not just birth mothers, when the birth mother is deceased....

"My granddaughter said to me recently, 'Granny, why can't the government change the laws because your sister's adoptive parents are probably dead now anyway?'" She's 10 years old.

In general, I feel that no one has the right to keep me from meeting my sister, especially after 55 years have been wasted. My family didn't have the right to keep it from me. No law or bill should also take that right away for me to know her.

Finally, still missing my mother 23 years after her death, being able to hug my sister would be like having a part of my mom back with me. Once again, I implore you just to change the bill to help someone in my strange predicament.

I was at my doctor's office a week ago having my yearly checkup and she signed a few papers for me to help in my search. I just want to quote what she said to me. She agreed with me that I have the right to find my sister, and she said, "If I had ever adopted any children, I would definitely have told them that they were adopted because of health issues that they should know about their birth family. They have a right to know." She wrote on here for my birth sister, if I can ever find her, "As there is a strong family history of cardiovascular disease, it would be prudent to allow Joyce's sister to be informed so she can be screened if she doesn't attend a doctor regularly." In other words, she could drop over from a stroke, as my mother did at age 67 and my aunt at age 67 with two strokes, and our grandmother died at age 52 after three heart attacks.

That's about all I have to say. Thank you for listening.

The Chair: Thank you, madam. There's about two minutes total. So less than a minute, Ms. Churley, if you have any comments or questions.

Ms. Churley: Thank you for your presentation. You certainly demonstrate in a very personal way how very important this is for people in your situation. As I understand it, the bill, as it is now, only applies to the birth parents and the adult adoptee and doesn't deal with siblings and other relatives. You're asking for an amendment to fix that?

Ms. Armstrong: Yes, please.

Ms. Churley: The second thing I just wanted to ask you quickly—you've got some medical information here. Just under the existing laws, have you gone through the process? A grandmother dying at 52 after three heart attacks is critical information to get to a blood sibling. Have you gone that route as well to try to—

Ms. Armstrong: That's my doctor's point. What if she's the type of person who's walking around and doesn't like going to the doctor and her blood pressure is like mine, sky high? She could die. She needs to know.

Also, at age 55, I have the feeling that the people who adopted her may never have told her to this day that she's been adopted and it will be a terrible shock to her. I also realize that she may say, "No, I don't want any part of this, a mother who gave me up and kept that one and didn't keep me." I understand all that. It'll be very hurtful to me if that does happen, but at least then I'll have to try to get on with my life. At least I'll know she's still alive. Right now, I don't know if she's alive or not.

I wish the privacy minister was still here because I'd say to her, "Unless the bill goes through and information is given to me as a sibling, tell me how I can find her without winning the lottery tonight," sort of thing, and hiring an investigator. I don't have money right now for anything like that.

The Chair: She was the commissioner, not the minister.

Mr. Parsons has a question for you.

Mr. Parsons: One of the challenges you faced was, you didn't know till very late in life that in fact you had a sister.

Ms. Armstrong: A couple of months after my mother's death in 1982.

Mr. Parsons: I bet you would have loved to have known 25 years earlier or more.

Ms. Armstrong: Oh, of course.

Mr. Parsons: At one time, it was fairly normal practice when siblings came into the care of a children's aid society to split them up and adopt them to different families. I would think there are quite a number of individuals in Ontario who are adopted who have not a clue that they have a sibling somewhere. This bill doesn't deal with it. Is there a better way to make individuals aware that they in fact have a brother or a sister or both or more somewhere? There's no way to find out. In fact, the adoptive parents may not know that there are siblings.

Ms. Armstrong: Yes. I know I shouldn't be mentioning someone else who just spoke, but the young fellow, the 42-year-old who's so angry, it's strange to me. He mentioned to his children that he's adopted and his children will probably grow up thinking, "Daddy's a creep. He doesn't want to meet his own blood mother." If one of those children ever gets sick, and it's something that he has to talk to his real mother about, he'll change his tune fast then. He's acting like it's the end of the world for him if his mother comes—

Mr. Parsons: I'd rather not talk about him. I would rather talk about—

Ms. Armstrong: OK. I'm just saying that all he has to say to his birth mother if she comes looking is, "Sorry, I'd rather not. Goodbye." Big deal.

These are two lives we're talking about here, two ladies who are getting on to be seniors soon who have the right to meet.

The Chair: Thank you very much.

Ms. Armstrong: Thank you for letting me speak. I'm shocked that I didn't need a box of Kleenex here.

Ms. Churley: We're doing well today.

Ms. Armstrong: Yes. This is the bravest I've been in two years, I'm telling you.

The Chair: Thanks.

MICHELLE EDMUNDS

The Chair: Is Michelle Edmunds here, please?

Ms. Michelle Edmunds: Thank you for giving me the opportunity—oh, by the way, this is my adoptive brother, Paul, who came to support me today.

Thank you for giving me the opportunity to share my thoughts with you. I am a reunited adoptee. I reunited with my birth mother and four siblings eight years ago. I am very much in favour of Bill 183 passing in legislation.

I would like to share with you a recent example where, because I am adopted, I was unable to answer an identity-related question. A co-worker of mine and I were talking over lunch. She was talking about being from Egypt and she asked me, "What is your nationality? Where are your parents from?" I felt that all-too-familiar knot tightening inside of my stomach, which happens every time I am presented with identity questions or scenarios, and I replied, "Actually, my mother was born and raised in Halifax, but I have no idea where her parents or ancestors are from. I only met my natural mother once, and that was for about five hours in her apartment in Edmonton in September 1996. To tell you the truth, I will probably"—am I too close?

Ms. Churley: It's a little too close.

Ms. Edmunds: Oh, sorry.

"To tell you the truth, I will probably never find out what my nationality is or who my ancestors were. My natural mother died two months after I met with her. I was 34 and she was 62."

This conversation is not unique. In fact, it's just one of countless instances where I could not freely identify myself to others. I am adopted, and this means I have never had the privilege of answering any questions on my ethnicity, appearance, medical background, ancestry, personality, talents or characteristics.

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There has never been a time in my life when I did not have the innate need to know my natural mother and identity. The perception I held of my birth mother, however, would often oscillate: One minute I would be dreaming about her, and it felt as though she were in the room with me, talking to me, and I wanted her and needed her, but just as I was about to see what she looked like, she would quickly disappear and I would awaken in tears, longing for her faceless image to re-emerge. Soon after, though, I would be angry with her and decide that she was not worthy of meeting me. Then I would think about my adoptive family and feel tremendous guilt on how it would hurt them if they knew how much I wanted to know my natural mother. I would say that I was happy and content with the family I had and that meeting my mother was not important. But it was a charade, and the dreams did not stop; they in fact amplified, and so, often, while looking at my reflection in the mirror, I would crave to see my mother's face, my father's face, an aunt, a grandparent, a cousin—just someone who I could say I looked like. I wanted to hear a voice, a laugh. I wanted to know what my ethnicity was, and could I be the daughter of a movie star or a descendant of royalty?

You see, I had convinced myself that there must be some grand reason why my identity was such a secret and why I was forbidden access to it. Fantasizing about who I was and where I came from was easier than facing a painful truth: the truth that the very people who gave me life didn't want me; that not only was my conception and birth a mistake, but something must have been terribly wrong with me, because all my friends and schoolmates had been kept by their families, yet I was given away.

For years I struggled with the decision to search, not to search. What will I find? What if I'm rejected? But the physical urge never ceased. It was as though I were suffering from some sort of identity deprivation, and the need to connect with my roots was escalating, begging to be confronted. But I felt powerless, alone and scared of potentially hurting so many people. Then I would say to myself, "This isn't right. I did not choose to be born, I did not choose to be adopted, and I did not ask that all fundamental aspects of who I am be taken from me and hidden." I realized that I could no longer deny my feelings and that searching was one step toward self-healing and autonomy. I realized that wanting to discover my past was not because of selfish or irrational thinking and that contrary to what I had been taught, it was normal to want to know my natural identity and family. I realized that a serious injustice had occurred and it was me who had been victimized by the practice of adoption, not my birth mother, not my birth father and not my adoptive parents.

Everyone had made a choice on what my fate would be, but I had made none.

I no longer felt obligated to carry the burden of shielding everyone else's fears, and I came to understand that the secret that everyone was so terrified of being exposed was in fact me, a human being with dignity and needs and not some dirty little secret that should be silenced and hidden in shame. Someone chose to bring me into this world, who, for whatever reason, could not raise me, but by no means did this justify denying me the absolute and irrefutable truth to my existence.

A few years ago, I was invited to speak at a support group of teen adoptees to share my search and reunion story. At the end of the session, one young girl, probably 14 or so, looked straight at me and said, "If I saw you on a bus, I would think that you were my birth mother, because we have the same colour of hair and eyes; you know, we kind of look alike." My heart dropped and I felt sick, helpless, as I understood her pain, her need. I was once that person who for years would gaze intently at people in my schools, in stores, at parties, at work—anyone who I thought might be a blood relative. I would wish they would recognize me and say that I was part of them, but of course it never happened.

It wasn't until I was able to stand face to face with the woman who gave me life, to touch her, smell her, look into her eyes, see the tummy that I had once grown inside of that the dreams ceased, the fantasies subsided, and I realized that it was her I needed confirmation from that I really did exist. I was happy. For the first time in my life I felt like a real person. I could feel the earth beneath my feet, I could hear my voice—her voice—and it felt as though I just might be part of the same universe as everyone else.

I believe that the Ontario government has really come a long way in recognizing the long-term effects of concealing a person's natural identity. I admire the members of this Legislature who have shifted their views to that of understanding that the intrinsic need to search for and reconnect with one's roots is a basic human need, and that every adopted person deserves, like all non-adopted individuals, the knowledge of, and right to, any information that makes up the very essence of who they are, who they were and who they may become. Thank you.

The Chair: Thank you. There is about a minute and a half total; 30 seconds each if there are any questions.

Ms. Churley: Thank you for coming forward and telling your story. I think what is probably important and what is not being said here is that finding your birth mother did not take away your relationship with your adoptive parents.

Ms. Edmunds: Absolutely not.

Ms. Churley: That is sometimes one of the concerns expressed and one of the fears. But of course your adoptive parents bonded with you raising you, and you would have had a different kind had your mother lived. Can you speak to that briefly?

Ms. Edmunds: My adoptive family, actually, were pretty reluctant at first. I didn't tell them, again, because that's the story of the adoptee: guilt. It was actually my other adoptive brother who told them that I had reunited with my mother. They weren't pleased, but they came to understand, and then she died, as I said earlier, two months after I met her. But they embraced my four siblings and they would have embraced my mother had they been given the time.

The Chair: Thank you very much for your story. We wish you a good evening.

D. MARIE MARCHAND

The Chair: We will go on to the next presentation. The last one this evening is Marie Marchand. Is that properly pronounced?

Ms. D. Marie Marchand: That's close enough considering it's not my name. It's the name that the judge gave me.

The Chair: Thank you for coming.

Ms. Marchand: Greetings. One of your constituents is a very good friend of mine and had a good conversation with you.

I'm going to read something. I'm going to take somewhat of a different slant on this. I'll give you a little bit of my background. I'm a constitutional lawyer. I articled and had a contract in the office of the Attorney General of Ontario as a constitutional lawyer and policy adviser. I was an articling student of record on the same-sex adoption case. Because the issue was conceded, because the best interest of the child was based on the adults, as a right, as opposed to the best interest of the child, groups did not get to intervene.

My adoptive mother and grandmother were alive at the time, and dying, and they were really quite abusive to me. My tragedy is that I did not form a relationship because there was no truth. We need absolute transparency. When human beings don't have the truth, they speculate, and when you speculate about your very existence, that's crazy-making.

What I'm attacking and what I have a real problem with is the name-changing. I'll tell you something, and Gail Sinclair from the federal government, who is a constitutional lawyer there, will tell you the same thing: It is a criminal offence to not only put false information on a statement of live birth, it deprives all Canadians of a true and accurate census. It's black-letter law, sweetheart, and there is no relationship between my best interest and changing my identity. At seven years old, you can't; at 14, you're not allowed to even discuss the issue of changing identity.

If there is complete transparency—what?

The Chair: Go ahead. I'd like you to talk to me, if you can.

Ms. Marchand: Sorry?

The Chair: I just want to make sure that you were talking to me.

Ms. Marchand: Oh, I'm supposed to talk to you. But he's so cute.

The Chair: I know, but I'm the Chair, so I have a little more—

Ms. Marchand: Oh, OK.

Now that I've said that's federalism, I heard in the House somebody talk about lawsuits. You do something wrong, you do something unethical, you screw up, you hurt somebody—because we're adopted, you should not be protected from that kind of behaviour.

Bootstrapping: The idea that the privacy commissioner here stands up and says, "Well, some of these people are 40 years old and these are in their 70s"—I asked when I

was four years old. My father was 22. My adoption was supposed to be open. They did not change my identity. They sealed my records and they didn't bring out a new statement of live birth. I don't exist. I can't get a passport. I couldn't vote until 1993. I have a real problem with the bootstrapping.

I went public with Michele Landsberg on July 7, 1999, and I have been targeted as a whistle-blower by the ministry. I went public—she wrote a really nice article—hoping that my father would come forward. She used my name as given now. I was stalked by my father, but I'm not allowed to know who he is.

Regarding Law 101 and the right to privacy: The right to privacy is between the state and the individual, not between individuals. We have a criminal harassment law to deal with that.

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Traditional ways: I was the outside editor—actually, I was the editor—of the royal commission on Aboriginal issues, traditional adoption. There is absolute transparency.

I think about the significance of the new reproductive technologies. For a child whose egg comes from one woman and who is in the womb of another woman and who is raised by another woman, that child's reality is they have an egg mother, a womb mother, and a social mother. They can mediate that. That's truth. What you can't mediate is confusion and speculation.

The issue of competing rights: Birth parents and adoptive parents know where they come from; we don't. We're the only group of people who don't know where we come from.

My life has been a nightmare. In the last eight years, I've lost my farm, my house and my law firm.

I think it's a real problem to have the state mediating the emotional lives of people. Precisely because it is so emotional, the state shouldn't be involved.

The other thing is, promises are not enforceable by law—another basic 101.

As far as medical is concerned, in the last six years I've been hospitalized twice and nearly died. I nearly died several times as a youngster. I have some serious hereditary illnesses. On my behalf, five doctors have tried to get information about medical records from my father. They contacted him and he said he didn't know my mother; then he admitted to having a relationship with my mother. My doctors tried to get this information, and they were really perturbed by what happened, so they wrote a really strong letter saying, "You're practising medicine without a licence" to the adoption registry. So they hired a doctor to overrule. "Do no harm," right?

I work with a group of children, and this is what they wrote:

"To whom this concerns"—I helped them, but these aren't my words. I helped them; I typed it.

"Why is it taking so long? Why do adults always make things so icky and long?

"Who changed my name in 19xx when they didn't have to? How come if I'm seven you have to ask? How come when I'm 14 you're kind of not allowed to?

"How would you feel if, all of a sudden, right now, someone changed who you are?

"It's hard to not be able to talk about it."

I just want to take an aside. When I was four years old, I found out I was adopted. I asked about it, and my adoptive mother—they did no house study on her—said if I said anything to my adoptive father, he'd kill me. She was adopted. Her own life was just tragic. The tragedy of this whole thing is that without truth, no real genuine relationships can develop. My adoptive father kept telling me things like, "Your father's a piano player" and "Your father can roller skate." I would say, "You roller skate?" and "You're a piano player?" He said, "No, your father was." I was thinking he was setting me up to take a shot at me, when in fact he knew who it was.

I turns out that my mother lived with my father's family, and when she got herself pregnant, my paternal grandmother kicked her out of the house. My father was on the road with the band. He never knew what happened. His heart was broken. He was just totally surprised. Then he found out, and then I didn't want to contact him, so his heart was broken again. He wanted to be a part of my life.

I have to make some corrections here. The records were sealed in 1978, retroactively, because with the permission of your adoptive parents, you were entitled to that information. I had to do all the research on the history of the law when I worked for the Attorney General's office. In fact, I will tell you, as a matter of record, that there is absolutely nothing in Hansard discussing why the records were sealed. I do happen to know—and I cannot reveal because this is cabinet stuff—that they were concerned about lawsuits.

I'll give you an example. There are two people teaching at the University of Toronto who were divorced and living separately, apart, and they lied about being married in order to adopt these two children. I know, because I was looking after her house when he walked in on me and my partner and said, "Oh, I have my mail sent here so they won't know we're divorced and they won't interfere with our adoption." This goes to what Ms. Wagner said about the possibility of corruption and conflict of interest.

I just want to return to this really quickly here. I know I fit a lot in. I really miss teaching.

"I don't think I can make my adoptive mother happy." This is the kids again. "I was told that I knew she's a nice lady and that she loves me. I always have to call them my mother and my father. I'm not even supposed to say their names even if I'm telling someone that" Sarah Whoever "is my mother's name. My adopted Aboriginal Canadian friend calls her adopted mother her auntie.

"It's kind of like those heritage commercials on television. The Irish kids asked to keep their names and got to keep their names.

"There was another show on television the other night. It talked about kids being taken out of the country by their dads. The kids were supposed to be living with their moms.…" You've got my submission, so I'm just going to really summarize here.

I heard a concern raised: "Well, how do you adopt if you can't change the names? How do you take a child that you've adopted across the border?" You get a card called a Guardian Angel card. It's a photograph of you and your custodial parents, whoever they are, so that you can cross the border. That information is on that little code, and if it changes, it's taken off. It also addresses a really serious issue we have about non-custodial parents taking children out of the jurisdiction and having, in some countries, no treaties to get them back.

Anyway, that's from the imagination of a seven-year-old, through whose eyes I am able to see. It's unfortunate that so many people can't.

The Chair: We thank you.

Ms. Marchand: Is that my 10 minutes?

The Chair: Yes. Your 10 minutes are over. We thank you for your presentation.

We thank everyone for being here. We will be recessing, after I hear from Mr. Jackson and anybody else, until tomorrow.

Mr. Jackson: Very briefly, Mr. Chairman, I notice that there are a substantive number of individuals who have travelled to Queen's Park and have been sort of crowded in the room next door. I wondered, if the Amethyst Room is available tomorrow, if we might move to the Amethyst Room so that we have access to the closed-circuit television for individuals who come to Queen's Park tomorrow. They're just able to have the audio version at this point. If it's possible, Mr. Chairman, I leave it in your good hands, as a suggestion.

The Chair: I thank you. Just for the committee to know, the suggestion was that if the committee wishes to switch with us, then it's a possibility. Nonetheless, we're going to look into it, and if it's possible, you'll be notified. Otherwise, we will reconvene tomorrow at 3:30 in the same place.

I thank you again for your understanding. We'll see you tomorrow. Good night.

The committee adjourned at 1857.

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