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Tuesday 25 October 2005

Mardi 25 octobre 2005

Speaker
Honourable Michael A. Brown

Clerk
Claude L. DesRosiers

Président
L'honorable Michael A. Brown

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LEGISLATIVE ASSEMBLY OF ONTARIO

Tuesday 25 October 2005

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

Mardi 25 octobre 2005

The House met at 1845.

ORDERS OF THE DAY

ADOPTION INFORMATION DISCLOSURE ACT, 2005

LOI DE 2005 SUR LA DIVULGATION DE RENSEIGNEMENTS SUR LES ADOPTIONS

Ms. Pupatello moved third reading of the following bill:

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.

The Acting Speaker (Mr. Ted Arnott): I recognize the Minister of Community and Social Services.

Hon. Sandra Pupatello (Minister of Community and Social Services, minister responsible for women's issues): Thank you very much. Let me tell you how pleased I am—

Interjection.

Hon. Ms. Pupatello: I'm moving the third reading debate of Bill 183.

The Acting Speaker: Ms. Pupatello has moved third reading of Bill 183, and again I recognize the Minister of Community and Social Services.

Hon. Ms. Pupatello: I was ready to go early on.

Let me tell you how pleased I am to be here to address Bill 183 for third reading. I can tell you that having this bill at third reading is indeed making history, and I hope we are going to go even further.

Let me tell you why I'm so pleased. I'm honoured to support a piece of legislation that, if passed, would give Ontario adoptees what the rest of us take for granted: the right to know their personal identity and history. I'm honoured to support legislation that, if passed, would give adoptees the same rights as non-adopted individuals, while allowing those who wish to maintain their privacy and not be contacted to do so.

Before I begin, I must acknowledge the people who are here with us in the House. There are a number of organizations represented here today who we as legislators have met with repeatedly—myself over the last 10 years and certainly over the last two years. Some of us in the House, who I know they'll acknowledge in their own discussions, have worked with these people for many years on this issue. May I say a very special thank you for your dedication, your patience and your commitment. It is indeed an honour to have worked with you. I didn't expect so many. I would have named you by name, but I don't have enough time in my speech for that.

Let me say that for years, adult adoptees and birth parents have been calling on the province to open our adoption records. Adoptees have told us that knowing about their past would give them purpose and closure to the struggle of coping with not knowing. They told us that just because they were involved with an adoption, they shouldn't be treated any differently; they should have the right to know their history and their identity.

Birth parents have told us heartbreaking stories about having to give up their children due to family pressure or out of fear that they would be ostracized for having a child before they were married and about wondering for years if their child grew up safe and happy. In some cases, they simply wanted to know if their child was alive. They told us that even if they didn't want to be in contact with that child again, or if the child didn't want to be in touch with them, they have an obligation to provide their child with information that they need to know about their past.

Adult adoptees and birth parents have given us a simple message: They simply want the ability to come to peace with their past. They want to know the facts and face the future without being impeded by a lack of knowledge. They want to know that they can keep their past in the past, if that's their wish. And we agree. We agree that adult adoptees should have the same rights as non-adopted individuals: the right to know their identity. We agree that every individual has the right to know about his or her own personal history. We agree that individuals who were involved with an adoption should be able to maintain their right to privacy and not be contacted, and we will go further on this measure.

I'm very happy to be sharing my time tonight with my parliamentary assistant for the last half of my portion of this debate. It's important, because my parliamentary assistant also led this legislation through committee. In that committee, we were presented with hundreds of people who made submissions to the committee and numerous people who came before the committee and spoke first-hand to MPPs from all sides of this House and told their own heart-wrenching stories, all of which has been included in amendments, in the development of our

regulations, to understand all facets of this very complex discussion.

1850

The case for change: We introduced Bill 183 in March 2005, exactly 78 years to the day that Ontario began sealing adoption records. That means that some of the current laws governing adoption date back to 1927—almost 80 years ago. That was a time when we had orphanages, insane asylums and homes for unwed mothers. That was a time when unwed mothers were told to give up their child for adoption because that's what societal norms and attitudes of the time dictated. I hope I have time to read to you some of the comments I have heard personally from people, either through the privacy commissioner or through my office directly, their own story about why this is so important.

Currently, there are 57,000 adopted individuals and birth relatives on the adoption disclosure register waiting to be reunited, waiting to learn about their past. Right now, searches to reunite families can take up to three years. Last year, only 887 of the adopted individuals and birth relatives on the register were reunited. We believe individuals should be able to learn about their medical and personal histories without this kind of undue hardship or delay.

During the standing committee on Bill 183, we heard from many people who are directly affected by our proposed legislation. There were 27 presenters who were in favour of opening access to adoption records—90% of those who appeared before the committee. The committee also received 139 written submissions, with 131 in favour—94% in support of this bill.

The ministry also received an awful lot of correspondence from adult adoptees, birth parents, adoptive parents, grandparents of children given to adoption. Out of 834 letters, 82% of these writers support our legislation and open access to adoption records, and most of them chastised the government for not having done this sooner.

We understand that there are those out there who want to keep their past in the past, and we have to be very mindful of this group. In fact, I believe our legislation has to respect this group as well. That's why the proposed legislation allows a person to place a no-contact notice on his or her file. That would require anyone who is receiving that information to commit in writing to honour that no-contact notice or face fines of up to $50,000. In other jurisdictions, these penalties have been effective. We're not aware of a single individual breaching a no-contact notice anywhere in Canada.

I'd also like to point out that if an adoptee or a birth parent is concerned that they will suffer harm, the legislation would allow them to apply to the Child and Family Services Review Board to prevent disclosure of identifying information. It is not an outright disclosure veto. I don't agree with a disclosure veto. I believe that members of this House—politicians, legislators—are not the ones who are to decide whether information is to be disclosed or not in areas where people may come to potential harm. That, rather, is for a board of experts expressly put together for this purpose. As well, that simple process of going through that board won't be the type, as has been suggested by others, that would be so inconvenient as to drag people to downtown Toronto, across a panel of strangers, to be grilled about past abuses or such, but a simple process that respects people who may come to harm through the disclosure of information.

An interesting point that all members of the Legislature will be interested in is that when the adoption disclosure laws were opened in Australia, there was no disclosure veto. Following the five-year review of that legislation, they felt it was not necessary to amend the legislation whatsoever, because it had worked so well. Rather than the sky falling, as has been suggested, the Australian experience was one of family reunions and respect for no-contact notices.

I'd like to briefly mention a privacy issue that people are not discussing, and that is that under today's current system, in the absence of government having intervened for protection, there is no privacy protection today for people who want to maintain their right not to be contacted. Adoptees and birth parents today are finding and contacting one another. It's happening every day. There are no laws or regulations that prevent someone from being contacted against his or her wishes. My point is that under our proposed legislation more privacy safeguards would be put in place than even currently exist today. Bill 183, if passed, would actually establish privacy safeguards in the form of no-contact notices and fines of up to $50,000.

Many of us have heard from the privacy commissioner. That likely is the greatest understatement of my speech today, because she has certainly spent an awful lot of time on this issue. But let's put some things in perspective. The privacy commissioner wrote to us and to others in this House, and I know they'll mention it as well. She says, specifically, "I wish to note that pursuant to subsection 165(5) of the Child and Family Services Act, records relating to adoption fall outside the scope" of her office.

Let's make this clear. I can't explain her unusual activity in this area because it is outside of her jurisdiction. We in fact asked for her opinion and we got it, in volumes, repeatedly. What's important about hearing that discussion is it tells us (a) what an emotional issue this is, and (b) that we have to keep those remarks in perspective as we move forward. What we did through the standing committee was that—what we had suggested from the beginning would be found in regulation around protections we would move by amending the bill, and we'd put those protections that would be found in regulation into the bill. This is important, because even the privacy commissioner has to acknowledge what we have added to strengthen protection in this bill. It's important that she should do that.

Let me say as well that out of all our committee hearings, and we did hear from all sides, we know it is emotionally charged. But we also recognized our responsibility and said that we would ensure that we have a

system for disclosure vetoes where appropriate. We discussed the definition of what it means to come to harm. We've heard lots of episodes and cases. Some she posted on a Web site—individuals who potentially may come to harm. We can't disagree that this may happen. We can't disagree that there are individuals who were born in another era, in another time, who feel this compelled that they'd come to harm should information be disclosed. It's very serious.

But we also felt that in every single case where a disclosure veto might be issued, there is a child in that relationship who, again, will be denied his or her rights to information. And it had better be seriously considered, not by you or by me, or by the member who is having difficulty with my speech tonight, but by experts. Let's acknowledge that there is some expertise required in this area.

I want to talk about a couple of people who have written to us. These are young people.

"I understand that you believe that the identifying information of my birth parents is 'their information,' ... but I believe that that is 'my information.' My DNA, my roots, my heritage, my genes," this adoptee said. That's an important point. Who could argue with this?

Another one wrote and said, "I am sick and tired of this paternalistic, chauvinistic, 'we know what's best for you' attitude of certain agencies." We can understand that feeling with some of the comments we've heard by various agencies and even individuals from this House.

One excellent quote: "Adoption loss is the only trauma in the world where the victims are expected by the whole of society to be grateful." How impressive is that? Isn't that true? You should be happy you were adopted and had a better life. You should be happy someone was prepared to take your child because you couldn't deal with that child—extremely paternalistic in thinking.

One woman wrote and said, "I am not in this quest so disillusioned that I have expectations of finding a whole new family, what I do want out of this is to find out who my parents are and the circumstances behind their choice. Good or bad, the answers should be mine to have." This is about choice and information.

"I have had to grow up having no information about my biological parents or my heritage. Because my parents lied to both my sister and I, we found out that we were adopted only when we tried to get birth certificates for ourselves. Can you imagine standing in an office at Queen's Park and being told that you were adopted and that your birth was never registered?" This was an experience of people here. She said, "In my sister's case, she drove home," after that experience "a distance of 400 miles, in a fog." and all she could think of was, "My whole life is a lie."

1900

Another wrote, "It has never ceased to amaze me how many non-adoptees formulate their own opinions about adoption while completely ignoring the first-hand experiences of adoptees." And that's true. How many of us have to be involved in judgment of these other people? I think we've got to stop that. "If you have not been adopted, you will never know the emptiness that comes from not knowing your own family history. Translated for the non-adoptee, that means not knowing yourself." This woman wrote about how she discovered her roots. In fact, her roots came from "1665 on the heels of Champlain" in Canada. It was a wonderful story.

One wrote and said, "I have always been artistic, and naturally musically inclined and wonder where I got this from, and if it runs in the family." I have "medical questions, history." He was made aware of his adoption at a very young age, at four years old, and yet could never get that information about his family.

Another: "I have never known the connection that comes with families that are blood-related other than my own kids. My brother and sister are adopted and have met their birth parents." I want this bill—"not for myself but for others after me to not be denied that opportunity to connect where they come from."

One says, "It is extremely important both physiologically and physically to have a working knowledge of one's past. For many years I have wondered where I came from, who I looked like and why I am who I am. The nature versus nurture debate still rages throughout society."

The list is indeed long of those who have written. "Adult adoptees need to be regarded as persons with equal rights to their own history, not objects of inferior victim status, paying the price for a decision that was made by another."

I think many of us are going to hear—perhaps tonight, perhaps in the next week—about this promise of confidentiality, and we have to meet this head-on, because that may have happened. I can tell you that there was not a document that was signed that promised confidentiality—there simply was not. It was not the law; it wasn't on the form. But the nun at the convent in that time indeed promised mothers that they would reconnect in many cases. It was on that basis that the young mother made that decision in that year, because she was told that she would have access. She swears today that if she knew she wasn't going to have access, she wouldn't have done it. She would have faced the struggle. They have written to us in droves to suggest this.

"You're always saying these mothers were promised confidentiality and secrecy. How can you honestly say that when in fact prior to 1970, the full birth last name was on the adoption order given to the adopting parents?" I think that's an important point.

I have to share with you something of interest. In 1995, here in Ontario, in the Ministry of Community and Social Services, there was a policy change—in 1995. That policy change was around the release of a certified copy of the adoption order. If people knew to call our ministry and ask for the adoption order, the actual court document, they were given it. They were given the court order. But most people wouldn't have known to ask for that. I don't know why that changed in 1995, but what

they did essentially was they opened up adoption. They handed over information.

Do you know that since 1995 when they made this policy change, there has not been a single complaint to the Ombudsman, not a single complaint to human rights, not a single complaint to the privacy commissioner, not a single complaint to the community and social service department or to the Premier's office or to opposition members, not a single complaint since 1995 when that policy was changed? I don't know why the privacy commissioner didn't know about this, because this has been studied to death in this House and we have talked about this bill for the 10 years that I have been here—three bills before this Legislature, supported almost unanimously, in 10 years.

I have to suggest to you, it's time. In the time that they received the adoption order, it contained the names of the adoptive parents, the child's birth name and the child's adoptive names. So please let's not suggest for a minute that there isn't one of us in this House who hasn't been a party to this for a long time already, and the sky didn't fall.

People want information, and we have to protect those who feel they'll come to harm from getting that information. We have to do what's right and we have to do it wisely in a balanced fashion, and I believe that is what we're doing. We have taken the time to amend a bill from its first introduction to move items that would have been in regulation anyway, to prove to the naysayers that this is where we're going.

I will sit and listen carefully to people who will continue to say the sky is going to fall. But I am telling you that the best indicator of future behaviour is past behaviour: not a single breach of no-contact anywhere in jurisdictions where it is used. In fact, we in Ontario have had open adoption records, if you knew to ask for the order, since 1995 and not a single complaint. This is a community who knows more about the issue of privacy than any that I have ever met. I hope that every member of this House will move forward and support this bill when it finally comes to a vote.

Mr. Ernie Parsons (Prince Edward–Hastings): I'm a civil engineer by training, and I think the reason I went into that profession was that I like the fact that two plus two equals four, and it's not nearly four, it's not approximately four: it's four. When we get into bills as emotional as this, it is somewhat difficult for me to analyze the entire picture. I have put a great deal of thought into this bill over the years. Although I'm an engineer by training, what I do bring to this debate, I hope, is some of my experience. In 1978, I got on the CAS board of directors and was there for over 25 years, chairing some of those years. I am an adoptive parent, and I was president of the Adoptive Parents Association at one time. My family and I continue to foster.

One of the most interesting things that happened to me shortly after I got on to the CAS board was an individual came who was a crown ward and was going to university and asked the agency to contribute some money to help her go to school. I thought, "Well, everybody else has family to lean on. They can lean on their families." Then I realized they don't have family. For all intents and purposes, they were it. They had no contact, no other knowledge. They had not been adopted, but they had been removed from their parents and had no knowledge of them. I realized that we had taken this particular individual and had completely isolated her from what every other person in this province has as a support network and to rely on.

I have no doubt in my mind, and I have had individuals tell me whom I have no reason to doubt, that they were promised at the time they gave up their child that their name would never be revealed. I believe that happened. It was not a government policy that made that happen; it was not a CAS policy that made that happen. Someone who clearly did not have the authority to make that commitment, made that commitment. But, at the same time, I have talked to a considerable number of birth mothers who said they were promised that when their child turned 18, when the child turned 16 or whatever, that contact would be re-established. Again, there was no government policy; there was no CAS policy. Individuals made statements that they believed honestly were in the best interests of the birth mother and the child at that time, but there was no legally binding authority behind that. I would suggest that there was, in fact, no thought of the ramifications, the implications of those statements.

When we were involved in our first adoption, we were rather surprised with this part of the process: We were given papers to fill out that, in fact, were the birth registry from the hospital, and we completed a page that made it look as if I was the birth father and my wife was the birth mother. We hadn't anticipated that, and we hadn't asked for it. Quite frankly, it struck me as a little bit fraudulent. I thought, "This is not right. We're the parents, but we're not the birth parents." We didn't ask to never have contact with the birth mother. It was assumed that we wouldn't want to. That was the thought in 1976. I was very uncomfortable with that at that time. But then I moved on and I thought, "I've got to try to put myself in the place of the adoptee."

We have a group of individuals in this province who do not enjoy full citizenship. If we do not pass this bill, we're saying—in fact, to say it to one would be too many, but we're going to say to thousands, "You're not entitled to your information about yourself." Think of that, that we would isolate a group of individuals and deny them access to their information. It is fundamentally wrong.

1910

But it's hard. I'm not adopted; I'm trying to make my decision as I go through my thought process based on information given to me. But for all of us, try to imagine if we were banned from contact with siblings, with aunts and uncles, with our very roots. There's a Web page that shows individuals who died in the sinking of the Titanic. One of the photographs on it is of an individual with the

last name of Parsons. I don't know if we're related, but he had the same receding hairline as I did and he was about as ugly as I am. I'm sorry that I say that about him, but I didn't get where I did on good looks. I know that. I have not a lot of doubt that there's some connection, and I found that fascinating. I just found it fascinating that I had a relative perhaps involved in that, but I had to know my last name to find that connection.

I find it absolutely totally unacceptable that we're prepared to say to a group of individuals, "You don't have access to your information." I appreciate the privacy commissioner's stance that an individual's information can't be given out, but I would suggest that there should be equal energies put into the fact that all individuals are entitled to their information. I strongly and passionately believe that people are entitled to their information. I think our role in this Legislature is to ensure that there is equity in Ontario for that.

For the birth parents who are not comfortable with having their child show up at the door—when I say child, the child may be 40, 50 or 60 years old; they're still their children—who say, "What if my child comes to the door? This bill will make that happen," it's actually quite the opposite, folks. This bill decreases the chance of that happening. In the age we live in, with computers, the access to information we have and the paper trail that we as individuals leave, it's not a really tough job for someone who wanted to go about tracing their roots. What this bill does is provide some order to it. It provides some structure. It provides a mechanism that I think is the ideal approach in that it says to the birth parent, "You don't have to have contact with someone if you don't want to," but it says to the adoptee, "My gosh, you have the right to know who you are and where you are from."

I do not think this bill takes and throws it open and we'll have hundreds or thousands appearing at doors. I don't believe that at all. Experience in other countries has shown us that doesn't happen, because for the first time, this provides some mechanism if a birth mother wishes that not happen. No, this bill makes the situation a thousand times better than it was, not worse.

This bill provides protection for cases where a child was taken into care because of abuse and there should not be the sharing of information. The regulations will provide the details on that, and I have every confidence that the regulations will do it in a way that will be sympathetic and responsive to how birth parents want to do it. There is a protection for those cases, and they're going to be exceptions.

Adoptees are going to find things that we who are not adoptees may say, "You don't want to know that." I would suggest that they're going to find exactly the same things as people who aren't adopted are going to find in their families. Not all families are ideal, but I believe that individuals are entitled to that information and to make their decision about what they want to do based on that information. It is extremely paternalistic: The approach now is that we know what's best for you and you shouldn't have this information. I believe people are entitled to that, and I believe that if you give people the right information, they will make the right decision. This bill empowers individuals who have been adopted to make the decisions that they and only they should make.

I'm an adoptive parent. Am I worried that there will be a day that our children may choose to leave us and return to the birth mother? No, I'm not. I've changed the diapers, I've sat up with the kids sick, and I've had the great times with them. I will always be their father and my wife will always be their mother. There is a birth mother and there is a birth father somewhere, but we're a family. The definition of "family" sometimes changes over the years. But if our children were to choose to have contact, then we'd help, because that's part of them and that's part of where they came from. We will probably be stronger people and a stronger family because of that.

I will add that in our involvement as adoptive parents and foster parents, I don't know of nightmare stories where gathering the information resulted in families coming apart. Not one do I know of, and I have been involved in the system for quite some time.

Nobody likes change. For people who have adopted and people who were adopted and people who gave birth, this represents change. I believe this bill is ahead of the rest of the world, but the vast majority of what is in this bill has been in regulation and in law in other jurisdictions and has worked. There has not been a slew of people showing up violating the no-contact—quite the opposite. I'm not aware of there having been a charge for it anywhere in the world.

I ask for your support. This is a bill that I believe is the best approach possible to granting each and every individual in this province full citizenship. They are entitled to know their information. I cannot support that more. I ask for your support on a bill that I think will do a great deal of good for us as a province, and a great deal of good for individuals in this province. Please support it. It is far too good a bill to not pass.

The Acting Speaker: Questions and comments?

Mr. Joseph N. Tascona (Barrie–Simcoe–Bradford): In my opinion, Bill 183 is a violation of section 15 of the charter. It is a violation of the privacy right. 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. The Liberal government has taken away, under Bill 183, our privacy rights. A person's information will be disclosed, and the only protection of privacy is that they request a no-contact order. The Liberal government has no justification for the violation of section 15 of the charter.

Minister Pupatello has not made the Liberal government's case tonight for Bill 183's violation of section 15 of the charter. Instead, Minister Pupatello criticizes the privacy commissioner for doing her job by speaking for those women who could not come forward to speak for themselves.

Minister, Bill 183's retroactive effect is legally and morally wrong; it can't be justified, and you know it. You haven't made any arguments here tonight other than,

"They have a right to information." That's all you're saying, but you don't want to deal with the charter. Clayton Ruby spoke in front of the legislative committee and basically told you what the violation would be. They asked for an explanation as to what is your justification to infringe on section 15 of the charter. I ask the minister, when she gets back up here tonight, to explain what is the government's justification for violating the Charter of Rights and Freedoms. I'd like to know what your case is going to be, because you know you're going to be legally challenged. You're going to be legally challenged because you're violating the Charter of Rights and Freedoms, and you know that.

Here tonight, all we hear about is, "It will grant everyone fuller citizenship rights." What about the citizenship rights under the charter that has been enshrined under section 15? I ask Mr Parsons, what about those people's citizenship rights?

Those are all my comments.

1920

Ms. Andrea Horwath (Hamilton East): I want to first of all say that I, as a New Democrat, am very proud and pleased to be able to say that I support this bill 100%. The reason I support this bill is because—I think it was alluded to by the minister—it has come before this Legislature on many occasions over the years, every time brought by the member from Toronto–Danforth. This bill is the result of the hard work of the member from Toronto–Danforth and the people who are sitting in the gallery with us tonight. It's their dedication, it's their determination and it's their drive over the years that have gotten us to third reading of what is now Bill 183.

I want to say publicly and loudly, thank you, Marilyn Churley, as a birth mother who has been reunited with your son, who was adopted when you were a young woman making those decisions and choices. Thank you all for being here, adoptive parents, people who have been dealing with this issue from a very personal perspective, from, in some ways, maybe a painful perspective, but a perspective that has always been in the interests of making sure that people have the ability to know their history, to understand the implications of the things that have happened in their lives and in the lives of their birth parents—not for negative reasons, but for reasons that are positive, for reasons that are forward-thinking, and not for reasons that some would have us think in the course of this debate, because I put all of those negative assertions aside.

I think this is the right way to go. It has been the right way to go for a very long time in this province. As a New Democrat, I want to close by once again thanking Marilyn Churley and those wonderful people in the gallery who have worked so hard to get us to where we are tonight.

Ms. Kathleen O. Wynne (Don Valley West): I had the privilege of serving on the committee that heard the delegations on Bill 183. I have to tell you, I have nowhere personally to process this issue. I know who my parents are, I know who my grandparents are, and my children know who their family is. So this, for me, has been a very educative process and it has been an intellectual process. I've had to process intellectually something that is extremely emotional. That's what I heard when people came before the committee; it's an extremely emotional, divisive issue.

It concerns me that the interests of as many people as possible are protected, and in the way this legislation was written and has been amended, I believe that is the case. We're protecting the interests of people who want and need their information. We're protecting the interests of people who believe that harm will come to them if their information is disclosed. We're protecting the interests of people who don't want contact. It's very compelling to me that in the jurisdictions where there's been a no-contact veto, that has not been violated.

This is not an easy issue. That's why I believe it has taken so long for legislators to deal with it. I believe this legislation puts a framework around this issue, and as I say, it protects the greatest number of people possible. That doesn't mean that there won't be people who are upset that it will pass, it's true, but I believe that in the long term, the fact that people will be able to have information—it's interesting that the member for Bradford—

Mr. Tascona: Barrie–Simcoe–Bradford.

Ms. Wynne: The member for Barrie–Simcoe–Bradford talked about other people's information. Does information about who I am belong to me, or does it belong to somebody else? I'm not a constitutional lawyer, but I think that will be an interesting discussion. Whose information is it? It's mine if I need it.

Mr. Norm Miller (Parry Sound–Muskoka): It's my pleasure to join in the debate and add some comments to the comments of the minister and the member from Prince Edward–Hastings on Bill 183.

I'm in favour of more disclosure of adoption records. I voted in favour of Bill 183 on second reading. My sister Mary was adopted. Her two sons were adopted, although just this last week, after adopting two boys, she gave birth to her first child at age 41—and shared a room with Liz Sandals's daughter, I might add. It was Liz Sandals who came across the floor to let me know that my sister was giving birth last week. That was a bit of a surprise to me.

That aside, I do have concerns about those who agreed to adoption under certain rules and the rules are now being changed. I note that the Queen's faculty of law, in coming before the committee, stated that "it is thought to be fundamentally unjust for changes to the law to have retroactive effect. For example, according to the legal philosopher Lon Fuller, one of the eight principles of proper law-making is the prospective, and not retrospective, nature of the rules created. The rationale for this principle is that citizens should be able to govern their affairs in accordance with the rules of the day."

I am concerned about those people who played by one set of rules and now we're changing the rules on them. I would like to see a disclosure veto. In the case of other provinces—I believe there's at least three—that have a

disclosure veto, very few people actually take advantage of that disclosure veto. In British Columbia, only five disclosure vetoes a year are filed. For me to support this bill—it would be a very easy decision if there was a disclosure veto incorporated into it.

The Acting Speaker: One of the government members has two minutes to reply.

Hon. Ms. Pupatello: I appreciate the opportunity to give you some summary remarks, and that is simply that this is an issue of social policy. It is very difficult to stand and listen to people say "right" or "wrong." You can't do that with social policy, because it's a matter of what decade you are in during that discussion.

I have no doubt that in 1927 it was seen as entirely appropriate to wrench babies from mothers who had no wish to give up their baby for adoption. We've heard lots of those stories. Likewise, in the 1930s or the 1940s it was entirely appropriate that these mothers who wanted to give their babies away, never to be seen again—what they heard at the time was that they were promised confidentiality.

Let me tell you about the retroactivity of this bill. There would be no point to the bill if it weren't retroactive, first of all. Second, the law of the day did not ensure confidentiality. There was nothing in the law that gave people this right. On the issue of privacy and information, can we please all recognize that there are two sides to this argument? Every time information is denied to one, someone else in that relationship maintains their right to privacy, and that has always been the struggle in this debate.

But finally, we're saying we have to do this safely and wisely and with balance. We have suggested tonight what we've done in the bill since its first introduction and the subsequent interventions and even my own discussions with the Leader of the Opposition, to say, "If you want to see what's going to happen in regulations, I'll do better than that. We'll put it in the bill." So we amended the bill, but that wasn't enough for some. It will never be enough for some, and I acknowledge that. I am prepared to acknowledge that I have a difference of opinion on this matter from some individuals in this House and some members of the public. But I also believe we're moving forward with social policy in the right way, to respect our times and to respect that group of people who have been denied rights for a long time. I must say, we couldn't possibly be threatened by the potential of litigation, or governments would be frozen forever.

The Acting Speaker: Further debate?

Mr. Norman W. Sterling (Lanark–Carleton): I join this debate with some history. At the outset, I would like to say to my colleague Mr. Parsons, from Prince Edward–Lennox—

Mr. Parsons: Hastings.

Mr. Sterling: Prince Edward–Hastings? I'm sorry. I don't know what it is after the next election. At any rate, I want to congratulate him on how he has carried himself through this issue. You have done it with honour, sir. You have answered questions honestly in committee. You have told us when you don't know the answer to a particular question. You have referred to staff of the ministry when appropriate, and they have told us when they didn't know. Unfortunately, they didn't know too often, in terms of some of the provisions of this bill.

I want to say to you that I also respect your personal involvement in this issue, both as an adoptive parent and also as a foster parent. I appreciate, as a long-standing politician of this Legislature and representing another eastern Ontario community, the work of so many of our foster parents across eastern Ontario and the sacrifice that you and your wife have made on behalf of many children. It's with that background that I listened very carefully to each and every comment that you made in committee.

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I would like to talk a little about the history of this particular issue. This issue, as you know, was brought forward by the member from Toronto–Danforth, Ms. Churley, on a number of occasions as a private member's bill. I believe it started early in the 1990s, though it may have been in the late 1980s. But in the early 1990s, as you may recall, the New Democratic Party—no, it must have been in the late 1980s, because the member opposite was also a minister during that period. I want to make the point that, notwithstanding that this issue has been very important to the New Democratic Party, during the time from 1990 to 1995 when that party had the reins of power and a substantial majority in this Legislature, this bill was not brought forward as a government bill.

For us to say that this particular topic has been in front of the Legislature is misleading in some ways to the public, because we all know that the strength of a private member's bill is far less than a government bill. Members of the public really do not believe—

Interjection.

Mr. Sterling: Members of the public do not believe that a major policy shift will be made by the contents of a private member's bill. Having been a government minister as I have been, all members of the Legislature realize that before a minister brings forward a particular policy proposal, a piece of legislation, it is necessary to consult widely with the community, the people involved with the particular issue. It's important that those people have their input before the legislation hits the floor.

That's the whole context of how and why a government bill is very much different from a private member's bill. We can introduce as many private members' bills as we want; there's no requirement on us to consult widely with all sides of the issue, to talk to people who are in favour of our proposal and against our policy proposal. There is no requirement for that to occur in the process.

Notwithstanding that I congratulate the member for Toronto–Danforth for her tenacity and her focus on this issue, and I understand her personal involvement in this issue, the whole idea that this issue has been discussed and has gone through the legislative process prior to this bill being introduced is somewhat of a fallacy.

Interjection.

Mr. Sterling: I also want to talk about—if I'm not continually interrupted by the member from Toronto–Danforth, Mr. Speaker—the process we've gone through with regard to this bill. When this bill was introduced, the minister read a statement in the Legislature whereby she inferred that the privacy commissioner was endorsing this particular piece of—

Hon. Ms. Pupatello: No, I didn't.

Mr. Sterling: Well, if you didn't—I invite the public and I invite you to read your statement in a response to me. Read your statement with regard to Ms. Cavoukian in terms of this.

Interjection.

Mr. Sterling: If you read the statement of the minister on the introduction of this bill, you would swear that the privacy commissioner was endorsing this piece of legislation.

Interjection.

Mr. Sterling: Well, perhaps one of my colleagues would get the Hansard in response to this particular statement and read it. We have it right here. I don't have my glasses.

The Acting Speaker: Excuse me; I'm just going to interrupt for one second. The important thing is that there is decorum in the House at all times and, when a member has the floor, that he or she is given the opportunity to present their comments without interruption. I would ask all members to respect that during the debate this evening.

I return again to the member for Lanark–Carleton.

Mr. Sterling: Here's what the minister said upon the introduction of this bill: "One woman, an officer of this Legislature—our privacy commissioner, Ann Cavoukian—was extraordinarily helpful in the development of this bill. The back and forth between our offices has led to a much better proposed bill. I thank her for her interventions, and I thank her for her thoughtfulness."

Since that date, and when Ann Cavoukian came out the next day saying she was diametrically opposed to the bill as it stood and insisted on a disclosure veto, the minister has attacked the privacy commissioner. She has attacked her in saying that she doesn't have jurisdiction and she shouldn't be saying anything about this privacy matter.

I ask the public, if you read that particular statement and heard that statement in this Legislature, would you not draw the conclusion that Ann Cavoukian, the privacy commissioner, was in favour of what the minister was doing on that day? Those are the minister's words in this Legislature, and I ask her to look up what she said at that particular time.

On the one hand, we have gone through a process which I think has in some ways improved the legislation. Our party realizes and I realize that I'm not on the side of politics with regard to this issue. There are very few people who will go into the depth of this legislation. Generally, my colleagues feel there should be more disclosure, but it's how to balance the rights of those people who have been promised that their records will be sealed forever with those who want to open those records. We don't feel that this government has found the right balance. We believe that Alberta, BC and Newfoundland have found the right solution.

I want to, in terms of the process, also talk about the original bill that was introduced here on March 29 and the bill that is in front of us in the Legislature today. I would ask any member of the public to have a look at the written version of the amended bill that we have back here in the Legislature. There's barely a section that has not been amended. About 70% or 80% of the sections have been amended. Some of those sections have been amended because of our involvement in the debate and the ability of Mr. Parsons to listen to the debate and say to his staff, "We have to fix this. We have to fix this piece of legislation, because the way it is now drafted will not work."

Quite frankly, I don't think the bill as amended is going to stand the test of time. My colleague from Barrie has indicated something about a charter challenge. I'm not even sure it's going to have to go to that level in order for the government to be forced to come back to this Legislature to revamp the bill. Essentially, what happened is that as the arguments were brought forward—and I don't think it was particularly because I or any other person debating this bill brought them forward, but I think it was more important that the privacy commissioner entered the debate. That's when the newspapers and the public started to say, "Hey, there may be a problem here." As a consequence, the government was forced to listen. In our parliamentary process, unfortunately, the opposition doesn't have much clout. It's just the nature of the beast, the nature of the institution. But once people outside of this institution start to chirp up, start to talk about a policy issue, then the government of the day is forced to listen.

As a consequence, we started to amend the bill. The policy started to change as we were in the process of debating the bill. The result is a bit of a dog's breakfast. The minister and the parliamentary assistant talk about making regulations—which maybe they'll come back to the Legislature to talk about and put into the legislation—regarding some of the very key parts of this piece of legislation. I talk particularly about the tribunal, which was an afterthought after this bill was introduced on March 29. It was an afterthought that came forward because I don't think the government did the kinds of consultations I talked about. They didn't talk to the other side of the community. They're hard to find, because there's not a large, organized group of people interested in keeping their confidentiality. There's not an organization around these people. So all the stories with regard to the fact that things are wonderful in New South Wales—they did a five-year study and nobody came forward. Well, guess what? Why don't people come forward? Because they don't want to be identified. It's a deep, dark secret that they don't want out in the world, so they don't want to come forward.

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I've said that the politics are against us with regard to this. Our party and I am standing up for a significant minority. As the member from Parry Sound–Muskoka said, we're talking about 3% to 5% of the people who went into a contract with the government whatever number of years ago. The minister tried to portray these contracts as being ancient. Well, I've got evidence, and I'll read it later, that one person was promised this a year ago. A year ago, an adoptive parent was promised that on the adoption of their child, the records would be sealed. That wasn't 50 or 60 years ago; that was a year ago. We have to respect what our government institutions, our government workers, our laws, our regulations, our policies and our sealed records conveyed to the public over the last 50 or 60 years.

I have not stood in this Legislature only this time respecting a minority view or a view which was very unpopular with the public. I go back to 1986, when I was the only member of this Legislature to vote against the extension of separate school funding: 117 to 1 in this Legislature. I predicted exactly what would happen, which is happening now, that is, that many people in our multicultural community are demanding the same right as the majority religion in the province of Ontario. How do you deal with that?

Notwithstanding that, you have to have logic and consideration of the institutions that we belong to in how you make law. This is such an abrogation of the principles on which we founded this institution, the principles on which we stand in this Legislature. Our duty, the government's duty, is to say to the people, "Here is the law today. Make your decision on the law today and follow the law, be a good citizen, and in the future you will be protected." A promise is made, an obligation is taken, and into the future that will hold up.

I say to my friend Mr. Parsons, I am a civil engineer and follow logic to some degree—as some people would say, it's sometimes no and sometimes yes—but I also studied law and was the Attorney General of this province for a period of time. I think I do understand the tenets and the institutions of our legal system. I am sorry that this issue could not have been resolved in a logical and reasonable way. The logical and reasonable way was to follow the example of the other three provinces and allow a disclosure veto. The beauty of the disclosure veto is, number one, that there is a very small take-up. You would get only those people who thought they were going to be greatly aggrieved by the disclosure of their information. As the member from Parry Sound–Muskoka has said, I think there were five people who registered a disclosure veto last year, so that somewhere around 3% to 5% of the total records would remain sealed.

By not giving that disclosure veto as a choice to people who have been promised the security of their personal information, you have to create another process. What we have seen here is the government struggling with this as we've been going through the legislative process since March 29. In the committee, they came up all of a sudden with the idea of a tribunal. So the bill we're debating today, which was amended substantially in committee—in third reading debate, you're not supposed to be talking about the general bill but about the amended sections. Well, with this bill, we can talk about any section because they were virtually all amended. The bill has been rewritten, and it has been rewritten not only once, but twice, three times.

In fact, at our last meeting in September, there were major amendments made to the legislation once again. Do you know why? Because the government discovered that they had done away with the registrar that has control over the records at this present time. They did away with that body immediately on the passage of this bill. That would have meant that between the time of doing away with the old system of disclosure—that is, all those people who have their applications in for disclosure now—and the implementation of the new bill, there wouldn't have been any disclosures because there wouldn't have been any registrar. The government talks about 18 months between those two periods of time. So we had to go through the bill in the second or third week of September, fully six months after the minister introduced this bill, to change the section to keep the registrar's office open for that period. That's how badly this bill was thought out. It's a bit scary. This piece of legislation, as amended, is a bit scary, because it wasn't the result of a clear policy intention, a clear policy proposal.

The government did listen to some amendments—I mean, they listened to our arguments. They brought forward the amendments themselves. There were some ridiculously bad things with regard to the original bill. One section said no one could open a sealed record. Then we asked the ministry staff, why keep the sealed record at all? Why not destroy the record if no one can open a sealed record? They said, "That's not what we mean. We don't mean that no one can open a sealed record." Yet there was a section in the act that actually said that. The ministry came in about two weeks later, with their tail between their legs, and amended that section. So we have what I would say is a bill sort of formulated on the go.

There is a real question as to what's going to happen as we do go forward. Number one is that there are some major parts of the bill that weren't outlined. Perhaps the most important one is how this tribunal is set up and how it is going to work. The parliamentary assistant was honest with us. He said, "I don't know. I don't know how this is going to work." I said, "Is it going to be one person? Are there going to be three people?" He did tell me there is no appeal from it. I assume it is going to be behind closed doors, because it's kind of a secret situation.

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But what happens if the person walks through the door and there's only one person on the tribunal? There's no appeal from it. You don't know what the biases of the person may or may not be with regard to this issue, and they may or may not grant a person, a woman who had been raped, continued veto of the disclosure. They may or may not grant her that, and she can't go anywhere else,

because there's no one in the room keeping a record. There's no appeal, as there is in any other court process.

The Statutory Powers Procedure Act is done away with specifically in the act, so that a woman who has gone through a traumatic experience, who was raped and who asked that her records never be disclosed—one person may be sitting in there who says, "I don't believe you. The records are open." That's what can happen under this particular act. The government's answer to that is, "We'll tell you later how this tribunal is going to function."

Mr. Speaker, you represent some small towns. We don't know whether this tribunal is going to go into small towns. I presume that if they go into a small town, everybody in town will know what's happening there. If a particular individual goes into the tribunal, it will be very clearly identified as to what's happening. So it's a very, very difficult process which they've set up under this bill, on the fly.

This is legislation on the fly. This is a bad piece of legislation now. In fact, dare I say it, the original piece of legislation is probably better than the amended bill. The amended bill reflects more of what we want in terms of protecting these people with regard to their right to privacy of their very personal information, but it doesn't all fit together, and the government hasn't really figured it out yet.

I've heard people and members of this Legislature before talk about how there's going to be a constitutional hearing and the bill will be struck down etc. Well, I do know that the courts are very reluctant to involve themselves with regard to legislative matters. I know that the courts are in some ways loath to involve themselves in issues that they would perceive as political in nature, but the problem with this one is that it isn't only Norm Sterling or the official opposition that are trying to protect the rights of this very small minority; it's the privacy commissioner of Ontario; it's every privacy commissioner of every province in Canada; it's the federal privacy commissioner. It's virtually everyone who understands what privacy law is about and what is the right balance.

I want to talk a little bit back into the process. On September 15, I asked for the names of the people the ministry staff had contacted with regard to the no-contact veto, because I had asked the question in committee as to how this no-contact veto had worked in New South Wales, Australia, which the minister repeatedly said that we should look to as being the ideal situation forever. The staff came back with an astonishing response, that although the New South Wales legislation has been in place for 15 years—it came into effect in 1990—there hasn't been one prosecution under the act.

I think I said that in this Legislature on second reading. I said, "Who on earth believes that a natural mother is going to undertake a prosecution against her natural child when in fact she doesn't want contact?" The last thing she wants in the world is to engage in litigation with somebody she doesn't want to be involved with—or vice versa: an adoptee who doesn't want to be involved with the natural mother. So this whole concept of a no-contact veto and there being a penalty of up to $50,000 is totally bogus and doesn't have any effect on what goes on.

Why I wanted to get the phone number on September 15, which I was promised would be delivered to the committee by September 27, was that I wanted to phone Australia to ask them about the anecdotal cases they had talked about in committee. The staff said that notwithstanding that there weren't any no-contact prosecutions, there were people who had contacted the people who were involved in the ministry and in the disclosure apparatus who were unsatisfied, who had some great concerns. I wanted to phone those people in Australia to find out a little bit more about that story. So I asked the question in the House yesterday, where was the committee's response? I didn't just leave it until yesterday. I asked the committee clerk on three separate occasions since September 22, has the response come back as to whom I talk to in Australia? No answer. I got back to my office yesterday afternoon after question period, and guess what was waiting in the fax box? A letter from the minister signed the day before.

Hon. Ms. Pupatello: That's the committee's job.

Mr. Sterling: Your staff made the commitment and they didn't deliver. You're responsible for your staff, Madam Minister.

Hon. Ms. Pupatello: Google them, for God's sake.

Mr. Sterling: Google them?

Hon. Ms. Pupatello: That's how I found them.

The Acting Speaker: I would ask the House to come to order. The member for Lanark–Carleton has the floor.

Mr. Sterling: The minister is sensitive. She didn't live up to a commitment, she hasn't lived up to this process, and so now she is in a defensive position. I understand her perceived outrage, which she often exhibits in this Legislature. This isn't anything new to any of us who have been in this Legislature. My disdain for such interventions is—anyway.

We believe very much in the right to privacy in this party. We don't believe that this province should have the least sensitive privacy laws in all of Canada. This government is displaying that here now.

We tried through the process, and Mr. Parsons has acted honourably. The staff have acted honourably in terms of what they have done. They didn't live up to this last commitment that I talked about. So I come to this debate, with regard to my knowledge about what happened in Australia—I didn't expect to have this debate until I'd had some time to contact the people in Australia and ask them about their experience. Because the minister has used the Australian experience as her basis for all of this, I think the legislative process should allow the opposition the right to talk to the same people her staff talked to, but they have a different idea of governing than we do. I would not have acted like this as a minister, and I've been minister of several portfolios, as you know.

I've talked about the process. I've talked a little bit about the degrading process that we're going to put these

people through to retain their privacy. I just don't understand how you can say to children who have been abused or to women who have been raped—I don't see how you can say to these people, "You've got to appear in front of a tribunal to protect your right." My colleague Mr. Jackson tried to bring forward an amendment in committee to automatically give these people a unilateral right of disclosure. Instead, you've got to go in front of somebody and say, "Please, sir, can I retain my privacy? Can I retain my privacy now and into the future? Can I do that?"

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I have a great deal of problem with this process, because it hasn't been thought through. The parliamentary assistant was clear with us when we asked him, "Have you thought through how this is going to work? Is it going to work by mail? Do you have to appear in person? Can you do it by videoconferencing?" "I don't know. I don't know. We're going to do it by regulation." Well, this is a key part of this legislation, and I think members of the Legislature should decide upon how this process is going to go. Instead, Ms. Pupatello and her cabinet ministers—

Hon. Ms. Pupatello: It's "Minister" to you, Norm. Don't be so sexist in here; use my proper title.

Mr. Sterling: There's the old sexist card. Go ahead.

Minister Pupatello—

The Acting Speaker: I'll ask the House one more time to come to order, please. The member for Lanark–Carleton has the floor.

Mr. Sterling: The ministers will make these decisions behind closed doors, and we know where the bias is in terms of what kind of decisions they will make. We don't know who they're going to appoint to these particular roles as tribunals. We don't know whether they're going to be independently appointed. We don't know whether they're going to be people from the advocacy group sitting in the lobby here today. We don't know who they're going to be.

Somebody going in front of this tribunal has no idea how the process is going forward. I think that's where this whole bill may fail. This whole bill may fail on the basis of this tribunal and how it's set up and how it isn't subject to the statutory procedures act. I think that will be part of the failing part of the bill, if indeed that happens.

One of the greatest problems I have with it is the retroactivity of the bill and not giving those 3% to 4% of people who want to retain their privacy the right of exercising that privacy. We're not saying that the bill can't be retroactive at all. We are saying that yes, the bill can be retroactive, as long as you give the people who are affected and were promised their privacy the right to exercise a veto.

We know this government had already introduced another bill which dealt with retroactively making law—that was the Adams mine bill—so I'm not totally surprised with regard to this government's abrogation of the institutions or the general rules of law. Notwithstanding that, this will be a very difficult one, and I'm certain it will be part of the charter argument that will ensue over this bill.

The most frustrating part of this for us is that three other jurisdictions have successfully done this before we did: British Columbia, Alberta and Newfoundland. Basically, they said, "Records are open, but anybody who objects to the records being open can register a disclosure veto." Only 3% to 5% of the people have exercised this particular disclosure veto.

The reason that's attractive is that, first, you're not saying to someone who was promised their privacy a year ago, five years ago, 10 years ago or 30 years ago, "We're taking your right away unilaterally." What you're saying to them is, "We're going to shift the bias on to you to take action." But the more attractive part of it for a government is that it can implement this law almost just like that, whereas the scheme that has been dreamed up under this amended bill is difficult, if not impossible, to implement. So those who are proponents of more disclosure may not get any more disclosure as a result of this legislation because of the fact that they are so adamant about getting 100% rather than 97% without respecting the small minority who want to insist on continuing their privacy with regard to these records.

I guess the other amazing thing is that there are few issues I've debated in this Legislature where every major newspaper in the province of Ontario has said that the government is wrong. Every major newspaper in editorials—the Ottawa Citizen, the Globe and Mail, the Hamilton Spectator; wherever you go, there has been an editorial which has soundly condemned this government for its lack of concern over the privacy issue.

Lastly, I want to say that I'm very proud of my party. I'm very proud of the people who have listened to this debate. I'm proud of people who have written to me from other parties—from the New Democratic Party and from other parties—who have written to me quietly or phoned me and said, "Keep up your work in retaining our rights to make our own determination, as we were promised." I'm very proud of our party and how we have embraced this issue and gone to bat for a small minority of people.

When you're talking about rights, whether it's a right you want for information or a right about somebody else wanting privacy, you have to balance those particular rights. Rights are not pure. A right for me is an obligation to somebody else, or a wrong to somebody else. I think it's the duty of the Legislature to find the right balance.

Lastly, I want to read from some of the over 400 people who have written to the privacy commissioner with regard to this bill and to their concerns over Bill 183.

Number 44—I'm referring to the people as numbers: "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."

That's from an adoptee. This is about freedom of choice and control over your own information. As the privacy commissioner said to the committee, privacy means control over your own personal information. A non-contact veto doesn't control your privacy. All it does is, it says to one other person, "You can't contact that particular person." It doesn't say to the other person, "You've got this information. You can't share it with anybody." In fact, the non-contact veto, as told to us in committee isn't between all of the family and the person about whom the information is; it's only between the two people. If one person gets that information, they can share it with any other member of the family, and any other member of the family can contact the person who didn't want the information disclosed.

That's the whole farce about this contact veto. The contact veto is an absolute sham and has no effect in terms of providing any protection to the person we're giving up in terms of the privacy they were promised.

Number 153, another adoptee: "I was very happily adopted at birth and have no desire to meet my 'birth parents' and vehemently oppose the passing of Bill 183. I feel it would be a total violation of my privacy to change the rules that were in place at the time of the adoption."

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Number 292: "The fact that I may be able to place a 'no-contact' order on the person who receives the disclosure as my 'birth parent' completely misses the point. The issue isn't whether someone will show up at my door purporting to be my parent—then I don't have to speak to him or her. Obviously, if I don't wish to speak to that person, then I won't. The bigger issue is that the government has no right to disclose this information in the first place, as it tries to define who my parents are, against my wishes, and against the truth, and thereby demotes my parents and my family to being a second-class family....

"My final comment is that I am not self-important enough to believe that I am speaking on behalf of all adoptees. I appreciate it is a difficult issue and there are varying views and opinions surrounding it. I am, however, dismayed that [those] who spearheaded this bill, are trying to do just that and speak for all of those involved. Simply because [some birth mothers] who gave a child up for adoption and apparently [have] had a successful reunification, had such an experience, that does not give [them] the right to speak for me."

Number 255, about doing harm to them: "I realize there will be 'no-contact' provisions, but I think we both know that someone so curious as to search for you may not necessarily be restrained by simple 'no-contact' wishes. And, like so many other provisions in our society, I suspect the 'no-contact' provisions will become virtually unenforceable through technicalities, administrative inability of agencies to enforce, insufficient penalties, third party interventions, etc. In any event, the damage may already have been done."

These particular people were talking about inviting unwelcome and unwanted intrusions.

Number 45—this is to the privacy commissioner, where I got this information from: "Please stick to your guns regarding a veto ... some of us wish to remain anonymous. I do not wish to 'be found' by natural family members ... 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. My parents still live at the same address, are elderly, and do not need to 'fight off' a frantic mother. It's possible that you have be [sic] deluged by mothers searching, but they made their decisions long ago. No one asked me ... now I finally have a say and I say 'no!!!' Thank you for listening."

Number 43: "I do not want my adoption records opened! A veto has worked well in other provinces. My birth family did not want me then and I do not want them to invade my life now! A no-contact order is not enough ... like restraining orders it will not work! I had no say at my birth but I do now, and I say no to Bill 183!!"

Number 156: "As an adult adoptee, I am sympathetic to those who wish to access information about their biological roots. I have no wish, however, to seek this information myself, nor do I wish my information to be provided to strangers. I do not agree that access to such information is a right.... I do not believe that a contact veto will suffice. I have witnessed the zealotry of adoptees and birth mothers and the threat of a fine will not be sufficient to stop unwanted contact being made."

This is about the tribunal, about those wishing to maintain their privacy and having to appear in front of a tribunal.

Number 292: "At this point, if Bill 183 passes, the only way I can prevent the disclosure of such information is to go before a government tribunal and 'beg' for non-disclosure. However, reading the fine print of this 'exemption' clause, it is clear that a non-disclosure exemption will only be granted if the adopted child has been abused or subjected to incest by those who gave birth to it. In my situation, these criteria do not apply. Therefore, if I appeared in front of such a tribunal, my request for non-disclosure would be denied. Forgive me for speaking candidly, but this seems not only backwards; but just plain wrong. Shouldn't the government be protecting my privacy rights instead of requiring me to justify why my private information should not be disclosed?"

Then I go on to birth parents who believe that they were given solid assurances of confidentiality. Many of these people have stated breaches of these promises and rights, and others have characterized the retroactivity of Bill 183 as wrong, unfair and a betrayal of trust.

I'll read number 37: "We birth mothers were promised complete confidentiality upon adoption, they ... assured me that adoption records were sealed with no possibility of them being opened at any time.… 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. In these cases the law should

not be changed, because society is more accepting now, but should stay with the rules as they were then."

That's complaining about retroactivity.

Number 39: "I was informed that the [personal] 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 released to anyone. If this bill is passed, it will be an invasion of privacy, and will be a breach of contract."

Number 272: "I worked as a social worker for 35 years for the children's aid society ... working with the unmarried mother regarding her decision to relinquish her child. Many had hidden their pregnancy from family, friends, school mates, employers, even the baby's father.... They asked and were given the assurance that no one would ever find out what had happened unless they chose to tell. Their long-term plan was to rebuild their lives....

"In those days, our word was our bond. This bill, even with its amendment, is a betrayal to the women we promised to protect."

Number 241: "I for one do no wish any contact whatsoever, and when I am no longer here on this earth, I do not wish any of my family being contacted.... When a person has been taken advantage of at a young age and believes they have done the right thing, this should be left as is. Why after all these years change anything?"

Number 152: "I personally believe that even if there was not a 'legal' promise of confidentiality to these individuals, the fact that they came away from the process thinking that their identity would be protected is the important factor."

According to birth parents, there will be a wide range of harms as a result of exposing them. These would range from emotional trauma, disrupting and destabilizing their personal, professional and family lives and inviting unwelcome and unwanted intrusion, to requiring those who wish to protect their privacy to go through a tribunal process.

Number 31: "I haven't felt so distressed or isolated since 40 years ago when I was 17 and pregnant."

I'm only reading one in every dozen.

2020

Number 147: "When I gave up my daughter ... years ago, I was assured that the records were 'permanently' sealed. I was only 17 years old, and no one knew that I was pregnant except my mother. I now have a husband, children, in-laws, work associates and many friends who have no idea what I went through all those years ago. My daughter was placed with children's aid because I wanted her to have the life that I couldn't give her. My social worker told me to make sure that I was sure of what I was doing, because the records were permanently sealed and that I would never see her again. There was no point in telling anyone else if I was going to give her up for adoption."

Number 308: "I have spent most of my life trying to forget but living in fear that this information would be given or leaked out even though I was assured that it wouldn't. Now the government wants to make this fear a reality."

Then there were a number of people who wanted to talk about unwelcome and unwanted intrusion. Since I'm running short of time, I'll skip those eight particular quotes from their letters to the privacy commissioner.

A lot of birth parents cannot speak publicly for fear of being identified, and a number have asked the commissioner to speak on their behalf. That's why I find it greatly disruptive when the minister says the privacy commissioner has no business talking about this particular issue, that she has no jurisdiction, that she has nothing to say about this. Well, I've got to tell you, the public doesn't believe that.

"[T]hose of us who have concealed pregnancies are powerless to write letters to the editor or speak out at meetings.... I do so appreciate your speaking out for those of us who can't."

Number 38: "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?"

There are also some concerns relating to adoptive parents.

Number 49: "A little over a year ago we adopted a[n] [infant] boy through the children's aid society." That's the one I was talking about in my main speech: It was just a year ago. "It was made clear to us at the time of that adoption that ... the birth parents would have no way of tracing our son since all adoption records would be sealed."

We're not talking about archaic promises, as the minister tried to portray this, back in the Middle Ages. We're talking about what happened last year; last year the promise was made. These promises are probably still being made at this time.

There are some letters here about youth who, at 18 or 19, are too young to make a decision about contact. What this legislation says is that between the ages of 18 and 19, a youth who was adopted has to make the decision about whether he or she is going to go to this tribunal and plead the case as to whether disclosure should be blocked with regard to the records, because of course they have become an adult. There is some concern, number one, about the degree of knowledge of what happened when he or she was abused, and the other part is whether or not these people, at that age, are in a position to make that decision. That's what these people have written to the privacy commissioner about.

During question period, we talked about the woman who talked about not wanting to relive the trauma of the rape she had undergone in going in front of the tribunal. I don't understand why this government wants to force a woman who was raped to go in front of a tribunal and relive that rape. Why does she have to go in front of a tribunal and talk about the details of that particular rape in order to protect the privacy that was promised to her? I

don't understand that. All you have to do is follow the legislation in BC, Alberta and Newfoundland, and allow that person to say, "I don't want it done."

Number 167: "I have an adopted daughter who is now [X] years old. She has stated to me that she does not want her birth family to have access to her information. Where is her protection?

"Even with a 'no-contact' order placed in her file, I do not believe that or the threat of a hefty fine would deter a determined birth family member. I believe they would think that the risk would be worth taking.

"Please protect those who do not wish to be tracked down."

Number 273: "If this bill be passed without at the very least a disclosure veto clause, it will bring tragedy into many families."

I have read a lot of personal testimony into the record today, but let me sum up in the last two minutes I have. The big problem with this legislation is that I don't believe the ministry made an effort to consult with the people on the other side; only through the privacy commissioner has their story been brought forward. They should have gone to the privacy commissioner and asked her to engage in a consultation with regard to these people before bringing this bill forward. This bill is a dog's breakfast. It is a bill that has been subject to the change of the minister's office on a day-to-day basis. We have seen more amendments brought to this bill than there are sections to this bill. There are only four or five sections of the original bill that remain intact.

The bill cannot be implemented without great difficulty and great peril to the people who are going to be subject to this star chamber tribunal. I don't use that term lightly. When you give somebody the outright right to make a decision on this basis without appeal, that is dangerous. It would be so easy for the government to just follow the other provinces. You will get all the privacy commissioners onside, you will get all the editorials onside, you will get us onside and you will only affect a very small minority—a minority, though, that needs protecting and needs to be spoken for in this Legislature, and I'm proud to do so.

The Acting Speaker: Questions and comments?

Ms. Marilyn Churley (Toronto–Danforth): I'll be speaking at length in a few minutes. I do want to say that the member has raised some issues that he's raised time and time again, and I want to correct him on a few. I'll have time to do more later.

The NDP government brought forward a private member's bill which was supported by the Premier and the government. It had extensive hearings—many of the people here tonight were involved in those—and came back for third reading and a final vote. A lot of us were left crying there and in our seats that night because Norm Sterling and some others filibustered the bill the last night of the Legislature. But it went out for extensive hearings and was fully supported by the government. One of my private member's bills, brought forward under his government—remember? under the Conservative government—went so far as to be sent out for committee hearings, public hearings and clause-by-clause and came very, very close to coming forward for third reading and a final vote, but was stopped at the end of the day.

So it isn't true. At least two of those I think nine private members' bills overall—there were others brought in by a few other people—went fully through the process.

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This member tried to filibuster the government bill before us today at the committee level and would not let it out of committee for the final reading and a vote during the last session, which is what we and the proponents and the people who are in the audience today came down and did. He held it up. I was there every step of the way. This is his last kick at the can.

I want to congratulate the Minister of Community and Social Services for saying that her government, if elected, would bring forward an adoption bill. They have followed through, and that bill is here before us today. Therefore, as a result of that, I know that the bill will pass, because the majority of the members in this House, as in Ontario, support the bill before us tonight.

Mr. Parsons: I want to thank the member for Lanark–Carleton for his kind remarks about me. I did in fact say I didn't know what was in the regulations, but that's part of regulation writing. It would be presumptuous of me to know what's in the regulations, because that's going to be drafted by people who know far more than I do, of whom there are millions in this province.

I do want to talk about some people who weren't talked about in the member's speech.

I want to thank the minister for her commitment to this bill. I believe in this bill and in the leadership the minister has shown to get to it this point.

I also want to talk about a group that we haven't talked about very much this evening, and that's the birth mothers. I've had contact with numbers of them through fostering and through adoption and through dialogue. I have not met a birth mother who did not love her child—not once. I would class birth mothers as heroes, because they did what they believed was in the best interests of their child. Giving up a child is not a natural action, but they are birth mothers who recognized their situation, recognized their child's needs and said, "I'm not able to meet those needs at this point in time," and they made their choice.

As my colleagues know, we lost our son last year. I would give anything, absolutely anything, for 10 seconds with him, but that's not possible. But for birth mothers in this province, that is possible, and the only barrier has been the governments over the ages—the only barrier. So we can't fix my problem, but we can fix the birth mothers' problems with the passage of this bill, and we owe it to them. We owe it to them.

Mr. Tascona: I want to thank the MPP from Lanark–Carleton for his comments here tonight. They're well thought out and certainly heartfelt.

Bill 183, from a prospective effect, is totally supportable in this Legislature. That's not even an issue. The

issue is the retroactivity in the law. A retroactive law is fundamentally viewed as unfair by our courts, because the courts support applying the law that was in effect at the time the conduct in question occurred. The courts frown upon applying law that was not in effect at the time the conduct in question arose. Why? Judicial fairness in the application of the law and the social legitimacy of government laws. The rules are not supposed to be changed in the middle of the game. That's what we're here for. We're not here to change the rules to bring things back.

But I will say one thing with respect to what Minister Pupatello said earlier tonight about passing legislation and the threat of litigation. I would say this: Bill 183 is a violation of section 15 of the charter and it's a violation of the privacy rights of all citizens of this country. Legislation cannot be made in a vacuum, which she is trying to do. There has to be some respect for the charter. If you're just going to pass legislation and say, "Social basis; it's the right thing to do," with no respect for the charter, no respect for the privacy commissioner, no respect for the opinions out there in the public with respect to what's right, then what are you doing here?

The Acting Speaker: The Chair recognizes the member for Hamilton East.

Ms. Horwath: Thank you, Mr. Speaker, for the opportunity to make some comments on the speech by the member from Lanark–Carleton. Although it had many things I didn't agree with, he always brings some informed points to the debate, and I certainly respect him for that.

I have some disagreements about how this is going to unfold once it becomes law in the province of Ontario. What I expect will happen is that there will be measured, appropriate, decent behaviour by all parties who are going to be affected by this legislation, so I don't buy into some of the fearmongering, some of the "sky is falling" sentiments being brought forward in regard to Bill 183.

I represent an urban area, not a rural area, and I served on a municipal council, but many of my colleagues are from what we would consider to be more rural or small-town perspectives. I was a little disturbed to hear an expectation, almost what I would consider to be a stereotypical type of expectation, that people in small communities will be hiding behind their drapes and hawking down the people that might be going to the hearings or to a tribunal to try to get their records kept private. That disturbed me a great deal. Certainly, if I were living in rural Ontario, in a small town in Ontario, I wouldn't want to be characterized as someone who had nothing to do but spy on their neighbours in order to create small-town gossip around who may or may not be attending a tribunal to maybe, or maybe not, have records maintained privately. That concerns me, and I'm worried about that kind of debate.

The Acting Speaker: That concludes the time for questions and comments. I return to the member for Lanark–Carleton.

Mr. Sterling: I want to make it clear that there was never a government bill brought forward before this one on this subject, notwithstanding what the member from Toronto–Danforth raised. It wasn't an NDP government bill; it was a private bill on her part. Her government didn't see fit to bring forward that bill.

In fact, during our time in government, there was an opportunity to pass her private member's bill, but the NDP saw another issue as a higher priority than her bill at that time. Chris Stockwell was the House leader at that time and we had agreed to negotiate with regard to her private member's bill, but it fell to the bottom of the list with regard to another matter that the NDP was putting forward. That's the truth with regard to it.

I'd like to thank the members with regard to their matters. I want to reiterate that we think a large part of disclosure under this could take place by following the example of other provinces, and that the potential threat of litigation, which would nullify any increase to disclosure, would be dealt with.

I know this is an emotional issue for many people. I do, however, believe that when a major issue like this—dealing with privacy—comes before the Legislature, it should be debated in full, not in one hour of debate on second reading in private members' hour. This bill, this matter, is far too important to be debated and talked about in private member's legislation.

The Acting Speaker: Further debate?

Ms. Churley: It's my pleasure to have yet another opportunity to stand and discuss this bill before us tonight. It's with great joy that I discuss this bill tonight, because Mr. Sterling, the member from Lanark–Carleton, is right in that it's very difficult to get private members' bills passed. I consider that a tragedy in itself, and something that the Conservatives promised they would change in their so-called democratic renewal package. They were going to change the rules so that if a private member's bill had I think over 75% support in the Legislature, they would go ahead and let that bill pass. Well, my bill, on numerous occasions, had more support than that and in fact should have been passed. That's something I would like to see happen in this House when there is that much support in the community and reflected in this place, which doesn't happen a whole lot—it did numerous times with adoption disclosure. The government in power, because a few people didn't like it, for whatever reasons—and that's their right, the right of the member for Lanark–Carleton and anybody else. But when, because a few people are opposed to something that the majority of members and the majority of people support, and we have that documented in studies—then that is undemocratic.

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We are here tonight. Fortunately, we are having a debate. It is a government bill, and that gives us yet another opportunity to discuss the merits of the bill, to talk about some of the work that needs to be done on the committee level, which all of the people here tonight in the gallery want to be involved in and will be involved in, because

we know that there are some holes in the bill. They came forward and discussed it in the committee. That's the kind of stuff we should be talking about here tonight: where the problems are, what the minister is committed to, to the members of the public here tonight and to me and to the standing committee. That's what we need to be moving forward now. This has been a long time coming.

I've never done this here before, but I'm going read this tonight, something I wrote for the Toronto Star on Wednesday, April 16, 1997, if you will bear with me, and if you will indulge me, Mr. Speaker. It says:

"After 29 Years, a Loving Circle is Complete:

"Despite my almost total immersion of late in the megacity madness of Queen's Park"—I remember that—"I have been eagerly watching the unfolding story of Joni Mitchell's reunion with her daughter, Kilauren. For me, this story has a special" interest.

"A little over a year ago, I reunited with a son I gave up for adoption at birth 29 years ago. I was still a teen, abandoned by the baby's father. And, like Joni, I was silenced by guilt and shame and unable to tell my family.

"It was a shockingly lonely and frightening ordeal. It took more than 24 hours after my first contractions to deliver my baby. I was left alone in a room with only a big round clock"—not quite that big—"on the wall to distract me and the occasional disapproving nurse coming in to check on me. I was an unwed mother in a small-town hospital, so the environment was an extremely hostile one. Though I was terrified, no one offered me even a word of comfort.

"When finally the child I had named Andrew emerged, they held him up for me to see. I was overwhelmed. Fresh from my body, he was stunningly beautiful even though he was covered with mucus and blood and crying heartily. The nurse let me touch his head. That was it. They would not let me hold him again because they knew he was to be adopted. When I was leaving hospital, they did pull his bassinet to the glass wall, and from the other side, all the while trying to memorize his features, I said goodbye. I told him he would always be in my heart and that some day we would be together.

"The next time I met my son (renamed William) was last March. We had been corresponding for a short time before that and had spoken on the phone. He is a university student in Waterloo, where I travelled to meet him. The moment I had dreamed of for so many years was about to come true, and as I approached his apartment, I was trembling like a leaf. When he came to the door, we drank each other in with our eyes and then he held out his arms to me.

"This last Christmas was our first together. On his birthday, we blew out a candle and held each other for a long time. He and his sister and three-year-old nephew have grown quickly and touchingly close. And miracle of miracles, I located his father, who came from British Columbia and met Billy for the first time. His arrival I awaited with great trepidation, since I hadn't seen him for almost 30 years. My fears, as it turned out, were groundless: Our time together was a happy one that provided Billy with the chance to learn the fullness of his biological history.

"So, what of the adoptive parents in all this? We know that Kilauren's parents were afraid of losing their daughter. I understand that and I pass no judgment on how they handled things. In fact, I pass no judgment on how anybody in this triangle deals with such monumental pain, fear and fierce love. There are no other relationships in our lives that provide benchmarks on how to relate to each other in this situation. I do understand your intense fear of losing your child because, you see, I did lose mine. I gave birth to my beloved baby, but in a way, I didn't stop carrying him inside me until the day I found him. After he was born, I cried for months. I look for him on every street corner as the years went by. I had my private ceremonies: on his birthdays, I would light a candle for him. For 28 years, I was among the walking wounded. I never stopped loving him and grieving for him.

"I would say this to loving adoptive parents: Please know that finding a birth mother does not mean you are losing your child. It is clear that Bill's mum is his mum—he loves her in a way that he will never love me. And I don't expect him to. We have a different relationship from mother and son, one that is hard to describe because it is unlike any other relationship I've had. I believe every human being should have the right to know their biological history, and Billy now knows where he comes from. That can only help him develop as a complete person. He knows now he wasn't abandoned but reluctantly relinquished in great sorrow and love. I haven't met his parents yet, but I will soon. Billy loves them very much. In his first letter to me, he said they were the kindest people in the world, who loved him unconditionally and would do anything for him. He told me his father was very moved when he read my first letter to him and said he would like to meet me.

"So I want them to know how grateful I am that Billy has such loving, wonderful parents. And I want them to know that because he has been brought into the loving circle of my family, this in no way diminishes the love and deep connection he has to them. And I thank them for the tremendous support and understanding they are lending Billy as he goes through this with me. They should be proud of the beautiful, sensitive young man they raised and nurtured. They are his parents and nobody can take that away. But I am the woman who nurtured him inside my body and brought him into the world; this also cannot be changed. I think the best choices we can make is to do our best to support the needs of our children and trust that the collective love we have to give them will enrich and heal us all."

That is an article I wrote for the Toronto Star some time ago.

Applause.

Ms. Churley: Thank you. I've never read it aloud before. I got through it.

I read it for a particular reason. I hadn't intended to tonight, but I want to tell you why I read it. To some degree, I like to stay away from the emotional aspects of

this, particularly when it comes to my position, but I was struck by the comments made by the member from Lanark–Carleton tonight. I must say, I was deeply hurt and amazed and shocked by those comments, and it made me want to read this from a mother's perspective.

The member from Lanark–Carleton went out of his way to congratulate Mr. Parsons for being an adoptive father and being such a good man and told him about the respect he has for him as an adoptive father, and I appreciate that; we all do. We all appreciate the adoptive parents in this world who take care of children relinquished for whatever reason. I know Mr. Parsons has taken in many children and is a wonderful father and loves his children very much, just as I talked about the adoptive parents of my son, my birth son.

But I was disturbed by what I consider the misogyny and the sexism in those comments, because I believe, reading between the lines—and there are birth moms here tonight, and there are adoptees and adoptive parents here tonight. I believe embedded in those particular remarks to an adoptive father was distaste for the birth mom. There were no congratulations or no words of admiration for what we went through.

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I appreciate Mr. Parsons—I forget his riding; I know I'm supposed to say that—standing up and speaking to that issue, and I very much appreciate his words. But that's the kind of thing that I believe, and I've been watching this debate and participating in it for a number of years now, that I see embedded—not all of the comments from those who oppose but the ones who are most ferociously opposed to the bill. I've noticed that there is that sense of misogyny in their approach to the issue, and I believe that that hurts us all, because what it means is that those particular members and those who constantly are opposed to it do not look at the other side.

I suppose that is human nature. It is human nature. We have a position, and sometimes it's the perils of this kind of democratic system where you've got a government and you've got opposition, and mostly that's the way it works. That's fine. Everybody does it—"Let's find ways to oppose this, because it's a government bill"—but when it comes to a bill that has such a huge impact on people's lives, that is wrong.

We have an obligation. We have an absolute obligation as legislators in this place to make sure we have all the information available about an issue that has such a huge impact on people's lives. There is a wealth of information on this issue. We are not reinventing the wheel here. We are not experimenting here. We are so far behind that it is laughable.

England changed its laws in the 1970s. Jurisdictions all over the world, well before we even thought about it here, changed its laws. Some have disclosure vetoes like here in Canada; yes. Almost all have contact vetoes, but they don't even have contact vetoes in England, since the 1970s. That's something they should be listening to.

"In England, Scotland, Wales, Northern Ireland, Israel, Argentina, Mexico, several US states, Denmark, Holland, Norway, Sweden, Finland, Austria, Germany, France, New Zealand, Australia, British Columbia, Newfoundland, NWT and Nunavut, adoptees can approach their respective birth registries and obtain identifying birth information." That's a quote from Michael Grand, Ph.D., who is sitting with us tonight with the Adoption Council of Ontario.

This is something we have been putting forward, Mr. Speaker, and you would know, because you've been here, and you've been very supportive in the past. I've always appreciated that. The evidence is there, and that is what is so frustrating about the level and the tone of this debate, and what is so hurtful. When the facts are put on the table and we're debating the facts, that's OK. We can have arguments. We can have arguments and disagreements about the facts. But when it's not the facts, when it's coming from somebody who hasn't done their research and no longer has the correct facts on the table, we're fighting with a phantom object here, and it frightens people. It frightens people who are impacted by this, and that's not fair.

When members who are opposed to this talk about, in particular, a rape victim who may be 75 years old, who may be out there watching tonight. I'd say to the member, don't talk to me about rape, and don't talk to me about being a mother and giving up a child for adoption, and tell me he knows what he's talking about when he brings that up.

I have a quote from somebody from the Coalition for Open Adoption Records, a birth mother who had been raped at age 13: "I feel very frustrated because I consider myself more of an expert on being a raped birth mother than Ann Cavoukian or anybody else. I feel that all my pain, all the abuse, all the money I have spent in therapy, all the education I have acquired in university to try and help lawmakers and others"—it seems to have ended there.

We heard from adult children of rape victims who had reunited with their birth mothers—touching, moving, incredible stories—and we heard from some birth mothers who had been raped, but this is what I want to say about it to anybody who out there who may be fearful tonight. What is wrong about what's being said here is that adoption records—as the minister mentioned earlier, and in fact the privacy commissioner had to correct her own record on this, there has never been confidentiality. Some people may have been promised that they could go away and forget all about having had a baby. Can you imagine? Can you imagine carrying a baby in your body for nine months, feeling it kick inside you, going through a painful birth, seeing that little creature you produced, and you're going to go away and forget about it?

There were social workers who I suppose did tell some birth mothers that to comfort them. It doesn't work that way. You don't have a baby and forget about it. But the reality is that birth registration had the mother's surname on it back then on a constant basis. So for any of those women we're talking about tonight who might have gone away, I admit it would have been an incredibly

painful, horrific experience. But I would say to them that if their grown-up children, I suppose now in their 40s, 50s, even 60s, had wanted to find their birth mothers, they would have done so by now. It ain't hard to do. It just was not hard to do. There was a period of time in history where that got discovered. The government of the day, Conservative, with a minister who was disturbed by this, actually for a while was having numbers put on birth registrations. Can you imagine a baby being born, being taken away and then just given a number on their birth registration? This legislation is necessary for those, or those with very simple, ordinary names who find it hard to contact each other perhaps need this new legislation, these open adoption records, today.

The reality is that there were, and still are, many opportunities for people to find each other. In today's world, with the Internet, with the fact that so many adopted children, when they became adults and even earlier, had the names of their birth mothers, they are finding each other left, right and centre.

I didn't find my son through the adoption registry. Like many others I had put my name in and waited and waited. It was very difficult. But I made a decision, as I think most of us do; we care about our children so very much. For me, I had to feel intuitively, once he hadn't found me, that I must look for him. Then I started the process. I got in touch with Holly Kramer through Parent Finders. I had something called non-identifying information. That's something you can still get through the ministry. That's one of the things we need to work out, that we maintain that, because it's very important, in searching, to have not only the birth certificate—the original birth registration, what this is all about—but also that non-identifying information. That, coupled with the other knowledge from the birth registration, is very important. That's how I found my son. It took some time. I remember that I was up all night, writing that letter to him, and then waiting and going through the process. But the reality is that he knew my name. How many other Churleys do you know? Raise your hand if you know one more Churley in this entire province. There are only a few in the country. It's a very unusual old Newfoundland name. There are not many of us. He had my name. I was a cabinet minister. I was the Registrar General of this place and, I can tell you, it made me crazy knowing that up there in Thunder Bay was his birth registration. I couldn't allow myself to take advantage of my position and get in there to look it up, but I must admit it inspired me to start that search. But after I found him, he told me he knew my name. He used to see my name in elevators—remember?—on the elevator licences. Every elevator had them in Ontario. He used to see it, and he used to wonder, because it is an unusual name, "Could that be my mother." Then he'd think, "Nah, who would have a mother whose name is on a licence in an elevator?" But mark my words, he would have found me one day. He knew my name.

The whole issue of the contact veto: I'm one who would not have minded at all if he'd shown up in this place and said, "I found you. You're my birth mom." I know there are some who would not like that. I know there are some who don't want contact. I also know from my experience in this issue that there are some who make contact and it doesn't work out. Not everybody's story is as happy as mine. That's a no-brainer. Not everybody's story is as happy, but every single person I know—people who are sitting here tonight, people who have become such good friends of mine, we've worked together for so long—says that at least now they know the big issue. It's great to see your smiling faces here tonight.

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All of us would like to have a relationship with our blood relatives—mothers with their children, children with their mothers—but we know for a variety of reasons that it doesn't always work out. But what we heard time and time again in committee is that people want to know. Birth mothers want to know that their child is alive and, hopefully, doing well. There's this great, big gaping hole. When you have other children, some people say, "Well, you'll have other children and you'll forget all about that one." You don't. You want to know. Adoptees: Sometimes they find out that they weren't born under the best of circumstances. Remember, we're talking about adults here.

Let's talk about the other side, the very emotional, disturbing side. We've heard from some, and the privacy commissioner about letters, birth mothers threatening to commit suicide if this goes through. I've heard, and there are studies that show, that some adoptees—I've heard from them—have a terrible time, not because they don't have a good family life, and they love their parents, all of that, but because there's something missing. They don't know the things that we take for granted when we're growing up. Just think about it. Think about it for a moment.

Maybe there are adoptees here; I don't even know. But let's assume that everybody here grew up in their birth families. Do you remember the first time your mother said to you, "Your ears stick out just like your grandfather's," or "Your nose is just as big as your Aunt Edna's"—my Aunt Edna is going to kill me for that one, but I have a small nose—or "You sound just like your Great-Uncle Albert"? Or you do something really strange, you have some kind of strange habit, and "That reminds me of my mother." You look at photographs. Think about it. You look at photographs and you see family resemblance. We take that for granted. We know our birth and health history. Of course, the evidence is now there that that health history literally is life and death these days when we know so much about genetically passed-on diseases.

I'm going to read you some of the quotes. Just to finish that thought, though, it's very important that people understand that this bill is not about legislating a relationship. Everybody understands that. There are some in the community who feel that it's wrong even to have a contact veto because people should have the right in a free society to look each other up—it's not stalking—but

nonetheless there's a general consensus that that is something that's important—that doesn't exist now, by the way.

As I said, my son who had my name, could have found me and knocked on my door any time. Evidence shows, by the way, that people don't do that. People just don't do it, because we have lost so much, and when the time comes to come together, nobody wants to do anything that's going to push the other party away. So people walk on eggshells for a while until those relationships are established, if they can be. That is the reality of the situation.

I do want to point out to you that what is interesting, and why I believe it is important for members to do their research—because very recently, interestingly enough, in Western Australia's adoption legislation, the records have been open for some time. I think since January 1995 they had a disclosure veto as well as a contact veto. Very recently, by coincidence, when we were battling out this bill, word came, not through the legal system but through the legislative process, that the government removed the disclosure veto. They removed it. One of the things that research shows is that disclosure vetoes, whether applied against birth parents or adopted adults, are very hurtful and punitive. They prevent medical information from being transmitted, and often the way they are carried out is very confusing. But what people should be looking at is why in Western Australia, in those areas where they've had the experience for a while and decided they didn't need a disclosure veto—why would they remove it?

Those are the kinds of things we should be looking at; not frightening people when they're aware that their names are already out there and adoption is in the family. It was I who revealed this information, and some from the adoption community. We held a press conference. We were trying to get through to people, trying to get through to the privacy commissioner and others who were listening to this, saying, "But wait a minute, you're wrong on this. There have never been legal means of confidentiality, and, furthermore, there's been identification on the adoption orders for a long time."

When that was discovered, this came out: "Alert for birth parents. Adoption identification alert.

"Until recently we believed, on the basis of information that we then had, that outside of the adoption disclosure registry scheme, it was extremely difficult for an individual to obtain identifying information from the registrar of adoption information other than for health, safety and welfare reasons. We are now aware that potentially identifying information from adoption orders is made available to adult adoptees on a routine basis"—on a routine basis.

"An adoption order contains the information set out in a designated form, and includes such information as the child's date of birth, place of birth [municipality, province and country], the name of the judge and address of the court issuing the adoption order, and often the full name of the child before adoption. The child's surname before adoption will likely be [although not always] the same as that of the birth mother or father. This, together with the other information, can be used as a springboard for identifying the birth parent."

Yes, that's what we have been doing.

Hon. Ms. Pupatello: He was the Registrar General at the time.

Ms. Churley: Yes, it's true; the former Registrar General should know that this is what we've been doing. Maybe you can get up in the two minutes and point that out, Minister.

Hon. Ms. Pupatello: No, no.

Ms. Churley: No, you don't want to get into it.

Let me read you some other quotes from when I had public hearings on Bill 77, one of my bills.

"The adoption agencies are neglecting to pass on [medical] information given by birth mothers who are trying to help their adopted children. Life-saving information is being withheld by the very organizations that are being put in place to help and assist." That's from Kariann Ford, an adoptee who came forward, who had a terrible kidney disease. She passed it on to her children. By the time she found out, she was very ill. It was a hereditary disease, and she found out that in fact that information had been left by her birth mother and was never passed on to her. She was pretty angry. She sued. She won a settlement out of court.

Another quote: "There have been no serious breaches of a veto anywhere in Canada. No one has ever accused another individual of violating a contact veto.... Vetoes work. They provide privacy for the small minority who seek it." That's from Wendy Rowney, Coalition for Open Adoption Records, who is here tonight.

The OACAS, the Ontario Association of Children's Aid Societies—we're going to talk about them in a minute, actually. Here's what they said then: "The OACAS supports the underlying philosophy behind Bill 77 and we are of the view that the time is right to bring about greater openness in the adoption disclosure process. It would, indeed, be unfortunate for this bill to fail to be enacted, after all of the adoption disclosure bills that have come before the Legislature in recent years."

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I want to talk about that, because I believe their support is absolutely critical and instrumental. Those who oppose adoption disclosure never quote them. We hear quotes from the privacy commissioner all the time, and let me say this: I have a lot of respect for the privacy commissioner. She does a good job. She does her job well, but I don't always agree with her, and in this case, she is not an expert. It falls out of her purview. She admits that. She says that. I asked her for her opinion and she gave her opinion. We had a good meeting. We talked about it. In fact, she's the one who said to me, "I am not an expert in this area. It falls outside my purview. At the end of the day, it's a complicated emotional issue, a social policy issue that should be decided by the Legislature," which is exactly what we're doing.

The real experts who have dealt with the adoption issue for years and years, who know this issue inside out

and have seen the pros and cons of the existing system and followed the history of how we got from A to B, fully support this. In fact, they came forward when I had committee hearings on my Bill 77, when Tony Martin put forward his bill, I believe, and they came forward for the Minister of Community and Social Services' bill, the government's bill, and gave their expert opinion. They know what they're talking about. We have to listen to the real experts. So I would say to any members, any people who are listening, if you're worried about some of the things that have been said about your privacy, read the report by the Ontario Association of Children's Aid Societies. They give a very good overview of the history of how we got to where we are.

I'm going to tell you a little bit about it, because it's quite instructive. There were prejudices of the times that started the whole process of secrecy. Has anybody here seen the movie Secrecy and Lies? Have you seen it? It's a great movie. It really sums up what I'm trying to say here, the harm that's caused by a lot of secrecy and lies. It relates directly to the issues before us tonight, and that, interestingly enough, is infertility and adoption. That's how this all got started, actually.

"From the time of the Adoption Act of 1927 and during the intervening years up to 1979, adoption records were sealed and complete secrecy was secured. In those years, a birth mother often left the family home or city to conceal her identity and pretend that the birth had never taken place. If a child was born out of wedlock, it was assumed that the label of illegitimacy would damage the child permanently. Single mothers, even more than is the case today, had poor prospects of self-sufficiency or family or societal support. Poor children were thought to have prospects of a better life if removed from poverty and placed with parents, who could provide both material benefits and a more wholesome family life. The third constituency in the adoption triangle, the adoptive parents, were also subject to a social stigma arising from a presumption of infertility. As a result, in many cases, adoptive couples went to great lengths to pretend that the adopted child was their own, and secrecy was considered to be in the best interests of all concerned."

That's what this movie is all about. Fortunately, we've moved on from those days when both illegitimate children and infertility were considered a shameful thing that had to be hidden.

"Notwithstanding the previous emphasis on maintaining a veil of secrecy over the adoption process, there was a change"—which we're all aware of—"in the 1970s, at which time there began to emerge a demand for more information from those connected to adoption."

So the adoption disclosure register of 1979 finally recognized the adoptee's need to know about the past, but it was merely a passive register, and adult adoptees required the written consent of their adoptive parents to enter their names. So we're moving along here slowly.

Then, "In the early 1980s, the courts began to become involved in the issue of adoption disclosure." There were a variety of cases then; something called the Ferguson decision, which I don't have time to go into tonight. "The Ministry of Community and Social Services notified all CASs that it would no longer provide information from its records, but that CASs could consult with their own counsel as to what action should be taken." Those are the kinds of things that went on.

Then in 1984, the Child and Family Services Act was proclaimed, thereby replacing the Child Welfare Act of 1978. Then the Garber report, which is a very interesting report, was actually commissioned by a Conservative government, Mr. Speaker, your party of the day. It happened as a result of the very concerns that are being raised here—way back then. This is entitled, Disclosure of Adoption Information: Report of the Special Commissioner, Ralph Garber, DSW, to the Honourable John Sweeney, Minister of Community and Social Services, Government of Ontario. At that time, this report recommended open adoption records and that they be retroactive. That was way back then.

Going back briefly again, it was in 1979 when Ross McClellan, a former New Democrat here, brought forward the first disclosure registry in North America. The same objections and fears were raised then when Mr. McClellan, who sat over here at the time, brought forward the disclosure registry at that time.

Then a report to a previous Conservative government said we should have open adoption records, that the existing formula was harmful and hurtful and that it should be retroactive; and here we are, it's 2005, and we're hearing the same arguments that have been so discredited now because a Conservative government back then—I think Mr. Sterling was probably here then. Were you?

Mr. Robert W. Runciman (Leeds–Grenville): He's been here forever.

Ms. Churley: The Sweeney report—you've "been here forever," Mr. Runciman says.

The fact is that we're having this discussion here tonight all these years later. I see that Michael Grand has a white beard now and he's lost some hair. I'm sure the processes of this place contributed to the loss of hair and the white beard, didn't they? But it's great to see you here. All of your work is coming to fruition tonight.

Then, as now, the argument was made that legal secrecy around adoption is mainly to protect the privacy rights of women who gave up their children for adoption. The argument was wrong then, and it should be rejected now. It's nearly 30 years later, and we're still having the same debate. The privacy commissioner's public statement recently was curious because, again, she admits to the fact that she doesn't have jurisdiction in this matter and is not an expert in it.

Dr. Philip Wyatt, chief of genetics at North York General Hospital, said, "Current adoption disclosure laws put the health of more than 300,000 Ontarians at risk. With our ever-increasing understanding of genetics, now more than ever, it is important for every individual to know his or her genetic history."

I want to talk briefly a bit about what seems to be a major issue for those who object to this bill, and that is the retroactivity of this legislation. This is not unknown when it comes to human rights, when humans rights are involved. When something is right, all must benefit, not just those born after a certain date or only under certain conditions. Even if it is a small minority, it is not right to say that 5%, which would be thousands of adult adoptees, are not allowed to have their own personal information.

The Ontario Association of Children's Aid Societies fully supports Ontario. It says that we lag behind other Canadian jurisdictions and other countries. Disclosure vetoes create two classes of adoptees: those who get basic information about themselves and those who can be denied this fundamental right. It sanctions the violation of the UN Convention. The UN Convention said that every person has the right to their own identity and, if there is a disclosure veto, then you are sanctioning the violation of the charter of rights.

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Mr. Sterling: Ha.

Ms. Churley: Ha ha, yes, it's true, and it's been proven in other countries. If people want to see this go to court, so be it, because it exists in other jurisdictions and it's working successfully.

But I want to repeat again and again and again that this does not legislate a right to a relationship but it does legislate a right to know basic information about yourself. The safeguards are in place—the contact veto. The experience of other provinces that I went into shows that there are problems with the disclosure vetoes. I want to say again that remedial legislation is possible, and that is what this piece of legislation is. It is remedial legislation because it is providing means by which a cause of action may be addressing wrongs of the past and looking for relief. Relief is being obtained. You are addressing wrongs of the past and, when it comes to retroactivity without the disclosure veto, we are talking about fixing a wrong of the past.

The choice to surrender a child for adoption, yes, is a deeply personal, wrenchingly emotional decision, and sometimes not a decision made by the young mother. In the era we're talking about, sometimes the young mother had the child practically torn from her because of societal values at the time, the secrecy and the lack of support. I would say this, too: When we argue and debate this legislation, virtually every government action interferes with personal privacy to some degree. You have to weigh the impact on the majority of people and the rights of the individual. In this case, I'm coming back again to the rights of the individual child—who's no longer a child, but an adult—to know their own basic personal information.

Supposing I said to you, Mr. Speaker—I'm trying to keep you awake here; it's getting late—that your very own birth certificate and registration were locked away in Thunder Bay, and you were about to have your first child. There's no medical problem yet—not yet. It might show up down the road, and because of all the thing we know about genetics these days, you wanted to know about your birth family. Even if you didn't care about it for yourself, if you didn't have a natural curiosity or didn't feel that need—and some don't feel that need—you're about to have your first child, and you're suddenly getting worried because you don't know anything about your biological and health past, and you want to know. You have a right to know.

What if I were your mother and I put in a disclosure veto, and you were about to have your first child, and you went and said, "I need to have my birth information. I need to know who I am. I need to have an update of the family's medical history," and you were told, "No, sorry, you can't have that"? Even though it's yours—as an adult, it's your information—you were told, "You can't have it because your birth mother has written a disclosure veto. Sorry if you're really concerned about the health of your first child, but that's just the way it is. We're protecting the right of your birth mother"—me—to not, I guess, have my privacy invaded. Let me say to you, Mr. Speaker, once again, that's why the contact veto is there. That is why it's there. We don't need a disclosure veto.

I want to say again, before I wrap up for the evening, to people who have been expressing concern about this aspect of the legislation before us, that I have received hundreds and hundreds—because I've been involved in this issue for a long time—of heartbreaking letters. Lives are being shattered every day. Women are losing babies in miscarriages, and they don't know why. Preventable diseases are being passed on to children. People live their lives in fear, and some are suicidal. It's a sad fact, but a reality. Elderly women in their 70s and 80s are writing me desperate letters. They want to find their children before they die, and they are dying in enormous pain and grief. They just want to know that their children are alive and did well before they die.

Those are some of the things that are going on and happening right now. It is not about a relationship; it is about a basic human right to know. That's what we're debating here tonight.

In closing for tonight, I would say to those who have concerns, do look at the legislation in Australia and England and all kinds of other jurisdictions where there is no disclosure veto; do look at existing legislation here and existing records here, where birth mothers' names are on most adoption records and are accessible—the reality of being able to get access to so-called non-identifying information—do be aware that, for the first time, we have a bill that, yes, legally discloses through the Ministry of Community and Social Services and the Registrar General, but at the same time puts in a contact veto, which doesn't exist today. So in fact this bill will bring a protection to those people who have those concerns of unwanted contact that doesn't exist now.

The Acting Speaker: It being very close to 9:30 of the clock, this House stands adjourned until tomorrow at 1:30 p.m.

The House adjourned at 2127.

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