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Monday 5 November 2001

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Lundi 5 novembre 2001

**Standing committee on
general government**

Adoption Disclosure
Statute Law
Amendment Act, 2001

**Comité permanent des
affaires gouvernementales**

Loi de 2001
modifiant des lois en ce
qui concerne la divulgation de
renseignements sur les adoptions

Chair: Steve Gilchrist
Clerk: Anne Stokes

Président : Steve Gilchrist
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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
GENERAL GOVERNMENT**

**COMITÉ PERMANENT DES
AFFAIRES GOUVERNEMENTALES**

Monday 5 November 2001

Lundi 5 novembre 2001

The committee met at 1540 in committee room 1.

ADOPTION DISCLOSURE
STATUTE LAW AMENDMENT ACT, 2001
LOI DE 2001 MODIFIANT DES LOIS EN CE
QUI CONCERNE LA DIVULGATION DE
RENSEIGNEMENTS SUR LES ADOPTIONS

Consideration of Bill 77, An Act to amend the Vital Statistics Act and the Child and Family Services Act in respect of Adoption Disclosure / Projet de loi 77, Loi modifiant la Loi sur les statistiques de l'état civil et la Loi sur les services à l'enfance et à la famille en ce qui concerne la divulgation de renseignements sur les adoptions.

The Chair (Mr Steve Gilchrist): Good afternoon. I'll call the meeting to order for the purpose of considering Bill 77. First off, we've allotted some time for opening statements. Normally we would have the government express the first thoughts, and then we'll work in rotation. Mr Miller?

Mr Norm Miller (Parry Sound-Muskoka): As the member representing the Ontario government, I am pleased to be here. I would also like to acknowledge the member for Toronto-Danforth, Marilyn Churley, who has spearheaded this bill.

Let me begin by saying that this government supports the need for further discussion and debate regarding Bill 77, the Adoption Disclosure Statute Law Amendment Act, 2001. We know that many families are supportive of reforms that will encourage and promote adoption disclosure. We look forward to these discussions so that we can do what's best for both adoptees and families with respect to adoption disclosure. We are committed to improving the adoption disclosure process to help reunite more families more effectively, more quickly.

Our government understands that people wishing to access their adoption records face many hurdles. Let me reassure members that we are also concerned about these hurdles. In particular, the historically long waiting list for searches has been unacceptable. That's why we brought in new measures to help reunite families and loved ones in a much more responsive way. For example, I am pleased to report that in March 2000 the government allocated an additional \$2.4 million to help reunite more families.

While we acknowledge there has been a high demand for active searches, the Ministry of Community and Social Services is making significant progress in reducing the waiting period for adoption disclosure—from more than seven years in 1998 to 1.5 years in June 2001. As well, as of June 2001, there were 719 adoptees waiting for their searches to begin. This is significantly less than the previous year, when 9,748 adoptees were on the list. We will eliminate that backlog in the near future. Moreover, the ministry will ensure that new search requests will be initiated within three months of applying to the register.

We are not planning to sit back, though. We know there is more to do and we will continue to work hard to speed up the process and allow adoptees to find their birth relatives sooner. I would like to share with members what the Ministry of Community and Social Services has done to support further measures for adoption disclosure.

There is no waiting list for the processing of matches between two parties who have voluntarily entered the adoption disclosure register, or cases in which there is extreme medical need. The ministry has reunited more than 30,000 adoptees and birth relatives who have voluntarily registered with the adoption disclosure register since 1979.

Since 1987, the ministry has also done 17,653 active searches to locate birth relatives and give them the option of reuniting or exchanging information. Ministry statistics show that we are successful in more than 90% of the searches in locating the individual being sought.

Within the current legislation, the Child and Family Services Act, we have also made a number of changes to adoption disclosure, including: we've given more detailed information to adoptees when their birth parents have died; we've maximized voluntary matches by comparing databases with private adoption registers; we've made the application process easier and more accessible; and we've established on-line access to the Ministry of Transportation's driver address databases.

Again, let me say that we have listened to the concerns that many people have about the adoption disclosure process. We know that many adopted Ontarians, as well as parents, want more access to the original birth registration and adoption records.

As members know, the purpose of Bill 77 is to provide adult adoptees and adoptees' birth parents access to adoption records that, under our current legislation, are released only upon the mutual consent of the birth parent

and the adoptee or where a medical emergency eligibility is met.

The bill proposed by the member for Toronto-Danforth also discusses a “no-contact” notice so that the birth parents could make their opposition to being contacted known. For some, privacy is paramount, and we need to respect those wishes. These are all-important issues and deserve further discussion and debate. Our government clearly supports any debate that is in the best interests of adoptees and their families. We are committed to improving the adoption disclosure process to help reunite families in a more responsive way.

The Chair: Thank you very much, and for the official opposition, Mr Parsons?

Mr Ernie Parsons (Prince Edward-Hastings): I bring kind of a varied background to this. Some of our children are adopted and two of my sisters are adopted. I’m not adopted, but we have for some 15 years now fostered children and we have had children with us at times for three, four or five years who have been moved on to adoption. When they’ve gone to adoption, invariably there has been no contact following that. So I have perhaps a very small sense of the loss of a birth mother and I have to say very small, it’s nowhere near the magnitude, but there are occasions, a lot of occasions, when we would like to know how they’re doing and would like contact with them. However, that’s not the case at this time.

I am also in my 25th year on the CAS board and chaired the board for three years. There was a proposal some years ago for a law very, very similar to this, and at that time I was flooded with letters and phone calls and visits from birth mothers who had given a child for adoption for a multitude of reasons and were very concerned that that birth child have access to them. Not wishing to judge whether they did the right thing, these particular individuals had made the decision to not tell their future partner and to not tell their children that they in fact had had a child they had given for adoption. They were in great distress at the possibility of an individual appearing at their door and identifying themselves as their birth child. They had in fact on occasion had a commitment in writing, what they viewed as a covenant, with the children’s aid society that their name would never be given. I am a believer that we need to respect a contract that was made. I have always had great difficulty with backdating history and backdating legislation, and I respect them for it, that that is a decision they made.

I do understand that there is a no-contact clause in here, but my experience with children we foster has been that the courts have at times issued orders barring the natural family from coming to our house, and the problem with a piece of paper is it’s a piece of paper, it does absolutely nothing, and once that contact is made, it can’t be unmade. We have had families who are barred by court order from coming to our home, but they still come. So a piece of paper means a great deal to a person who wishes to respect the law, but nothing to an individual who for a number of reasons is perhaps driven to make

that contact. I believe we owe it to the birth mother to honour the agreement that was made with her. I understand there are people who say that should not have been made, but it was made.

In addition, if we go back quite some time, my experience with CAS is the process for many of these young women when they gave up a child was for them to name the birth father. There was never any check done, and I suspect at times there were young men listed who had no knowledge of it whatsoever and may or may not have been the birth father.

Also, when Linda and I first applied to adopt, a question given to us by the agency was, “Are you comfortable adopting a child that is a product of incest?” We know that doesn’t happen in Ontario, but the reality is it does, in more numbers than we want to know about. So for an adult now to find out that that is in fact their background, I absolutely believe there needs to be a counselling component presented to them, that they can consider that possibility. There is at times a very thin veneer on civilization, and the reality is that that exists.

I understand the intent of the bill, and when I look at how other jurisdictions view it I note with interest that they do not backdate the disclosure. They say, “Henceforth, from when the bill is enacted, there is contact,” but they do not delve back 20, 25 or 30 years into history and present that.

1550

I have spoken to a number of individuals. As part of our foster parent association we’ve had individuals who were adopted and found their birth parent and they have come and shared with us that experience. Although the movies may present it always as a wonderful experience and that every birth family has just been waiting to reunite, the harsh reality is that for some it’s been extremely pleasant and a growing and wonderful experience, and for others it has not. It has not been a good experience for some of the birth parents to have it happen. It has not always been a good experience, and we have had adopted individuals say to us that in hindsight they wished it had not happened.

I can’t begin to give you statistics. I can only share with you my own personal experience, which is that this bill alters the fabric of adoptions that took place 20 years ago and I hesitate—in fact, I object to going back and changing the rules that far back. I believe that when we enact change, the change becomes effective now.

What we need to see done is more funding and more work put into the adoption disclosure registry. It’s not my job to make the government look good, but there have been some improvements in terms of funding in that. But that provides an opportunity for all of the partners to agree to it, not one or two.

I have been, as I suspect many others on this committee have, inundated with e-mails and letters over this issue. It would be far easier for me not to have substituted on this committee, not to have appeared. But with my 25 years’ experience in the child welfare field, I have great difficulty supporting this bill as it is presented.

There may be amendments that can make it palatable for me, but at this point in time I believe we are in a position that, if it is passed as it stands, it would cause distress to a significant number of individuals in this province.

The Chair: Thank you, Mr Parsons. Now we go to the sponsor, Ms Churley. This gives you a chance to not only make comments but any responses as well.

Ms Marilyn Churley (Toronto-Danforth): Thank you for that, Mr Chair. I appreciate it.

First of all, I want to thank many of the people who are in this room today, and many who aren't here, for all their hard work. Some date back to 1975 in their lobbying efforts to bring us to this point yet again here today. There's Parent Finders and the Coalition for Open Adoption Records, the Canadian Council of Birth Mothers, Bastard Nation and more that you will hear from.

Mr Parsons, I'm actually glad that you chose to sit on the committee, because I fully expect that after you hear from these people you may change your mind. There are a lot of myths and misunderstandings about the opening up of adoption records. Indeed, Mr Parsons, when you spoke, one of them was glaring. I believe you stated that all the adoption disclosure reform in other jurisdictions was not retroactive, which is not the fact. In this case, Ontario has fallen way behind. I can name many jurisdictions.

I'm going to be handing a package around to people from New South Wales, which is probably the best example to look at. It's a jurisdiction that changed its adoption disclosure laws in 1990, very similar to the bill before us today, and did a review in 2000 and looked over what had happened over the past 10 years. The bill is very similar. It goes further than mine, in fact, in terms of no contact vetoes, the same kind of rules about disclosure for both birth parents and the adult adoptees. I regret that I couldn't get the report to you before, but I do want to thank our researcher, Susan Swift, who did provide some information about other jurisdictions across the world that have similar legislation.

In Canada, we could look most closely at British Columbia, which brought in an adoption disclosure law several years ago. It as well has been very successful.

There are concerns raised about, for instance, birth parents, birth mothers being promised confidentiality. I wasn't promised that. I think most people know that I am a birth mother. I gave birth to a child as a teen and relinquished that child, and over five years ago reunited with him through my own efforts and with the help of Holly Kramer from Parent Finders, who is here today.

That is not to say that all reunions are successful, and it's not even to say that all people actually want to meet. I see this as a human rights issue. It's a bad law that we adopted from England in the 1930s. It was adopted at a time when there was shame attached to having a child out of wedlock, and shame indeed attached to infertile couples. At the time, nobody looked at the right of the child and the need of the child as that child grows up and that need to know who they are biologically. I can tell you from my own personal experience and from the

hundreds, by now, of birth mothers and some birth fathers and adult adoptees who have reunited and those who got information and did not have a successful reunion, how pleased people are in most cases that finally they know who they are. The birth mother understands and knows that her child grew up and is doing OK, and of course for the adult adoptee that gap in their lives, the thing that we all take for granted, we don't even think about—we all look like our uncle or our grandfather. We look in the mirror and see a reflection. That's important to people, to know your biological roots, to know your history.

Fundamentally, what this bill is about is updating a ridiculous system that no longer works. So I would say to Mr Miller that this is not about improving the existing registration system. It doesn't work for people. We are so far behind. Newfoundland, BC, the Northwest Territories and numerous states in the United States have moved forward with bills. This is actually, in my view, limited adoption disclosure reform, because many years ago a consensus was reached around this piece. There are many aspects of the adoption triangle that aren't addressed in this bill. In fact, some people from the large adoption community would have liked to see it go further in some ways.

Before I complete my opening statements, because I think it's important that we hear from the people here, I do want to point out to members, particularly members new to this issue, that it isn't new to us.

In 1975, the Toronto chapter of Parent Finders began the lobbying efforts to change the system. That's how far back it goes. In 1976, the Conservative Minister of Community and Social Services, the Honourable James Taylor, commissioned a report on the reform of disclosure legislation, and that report recommended that the system be changed to grant information. In 1979, Ontario instituted Canada's first adoption disclosure registry. Then Dr Robert Elgie commissioned Dr Ralph Garber to conduct an investigation on the reform of disclosure legislation. Garber's report, like the Taylor report, made the same kind of recommendations for adoptee rights, and it was ignored. Again in 1987, there were changes that went part way to reforming the Child and Family Services Act, but didn't go far enough.

In the early 1990s, the registrar of adoption information held hearings in Toronto, London, Windsor, Ottawa and Thunder Bay to determine the communities' feeling about reform. There were all kinds of protests. I remember it well. The adoption community just came out in the hundreds supporting the change.

As people will recall, in 1994, when we were in government, just before the election, Mr Tony Martin brought forward a private member's bill similar to mine which didn't quite make it through third reading before the House prorogued. It died on the order paper when an election was called.

Alex Cullen introduced a bill when he was a Liberal member that didn't go forward.

In 1998, I introduced Bill 88, which went through second reading and died on the order paper. Then again

in 2000, I introduced Bill 108. It too had the sad death of dying on the order paper when the House was prorogued.

Now we have before us, in 2001, Bill 77.

1600

You can see that the adoption community is out in droves today. It is with some excitement but some trepidation as well that we've come this far. I want to thank all the members of the House who allowed this bill—it's unusual for a private member's bill. I was allowed to have it pass second reading and go straight to committee. I and the community are extremely grateful for this opportunity.

You all know what the bill entails. I won't go into the details. We will of course have to have time to work on the regulations, to move forward, but I hope very much that after listening to this community, which has been involved in this issue and has been let down so many times after coming this close, this time we can together, in a non-partisan way, bring this bill forward and actually have it pass through the House so we can begin to work on regulations and, a year after that, actually have the bill finally in place. So I thank you for this opportunity.

PARENT FINDERS, NATIONAL CAPITAL REGION

The Chair: That takes us through the opening statements into the presentations. Our first presentation this afternoon will be from Parent Finders, National Capital Region. I invite their representative to come forward to the witness table and introduce yourself for Hansard. Just a reminder that we have 20 minutes for your presentation, including any time you care to leave for questions and answers.

Mrs Monica Byrne: Thank you very much, ladies and gentlemen. My name is Monica Byrne. I come here as the registrar of Parent Finders in Ottawa and as a birth parent. I'm interested in the fact that we talk about the issues so happily among us, but we have lived this issue. We are the people who have experienced adoption at the primary level. I am the birth parent. We have adoptees here and adoptive parents.

I speak to you as though I'm in the trenches now. I feel as though this is *déjà vu*. I was here before, in 1995. I've been involved since 1986. This matter has come back and forward and back and forward so many times, and it's really important that you are here today to hear our arguments. You are the lucky ones. There are a lot of people who are not here to hear the arguments around adoption disclosure reform.

Adoption disclosure reform is a long time coming in this province and we're sadly lagging behind a lot of other places. We feel often that decisions are made for us. I hear people telling me all the time what a birth parent feels, what a birth parent wants. These are people who are not birth parents. I am a birth parent. I'll tell you what I want and what I believe in as a member of my community.

Briefly, I'll give you my own personal story first. I am a birth parent from 1966. I am first and foremost a

mother of four children, three that I had in my family with my husband and one that I had outside my family before I was married to my husband. My husband is the father of my child. For all the years until she was 21, I thought about her every single day of her life. She was just as much my child as my other three children, only she was not with me. She was with another family. I was not raising her. It didn't mean I didn't care. It didn't mean I didn't love her. She was merely not in my family any more. I had signed away rights to parent her. It didn't mean I didn't care.

I was never promised confidentiality. I never requested confidentiality. I filled in no forms. I was asked to fill in no forms. There was no agreement around confidentiality. I was told in fact at the time that when my child turned 18, I would be able to find her. That was told to me, and I held that memory in my hand for years and years, that I would be able to go back to the children's aid and find out where my child was. When she was 18, I did go back, and I discovered that that had been a lie that had been told to me to pat me on the head and have me go away quietly.

I gave her away strictly because it was 1966. I was in university. I was unmarried. My husband-to-be was in university. Being an unwed mother in 1966 was not on. There was no way for that. We all know that, all of us who were there in 1966. You didn't keep a child out of wedlock, period.

I think over the years what has strengthened me to come and speak to groups and to join Parent Finders is the fact that I got sick of being spoken for. I was always being spoken for. Lawyers told me what I should think, social workers told me what I should think, society told me how I should feel, and I'm telling you how I feel. I feel that I should have had, and should still have, the right to reach my adult adopted child should I wish to meet her.

It got me going, and I went and found my daughter. I found her in Ottawa, living five minutes from me. I found her without the help of anyone but myself and good search methods. I should not have had to do that. This was my child by blood. I wanted to know if she was all right. I did not want to muscle into her adoptive family. She had a wonderful adoptive family. She had wonderful siblings and good parents. But she also had my other three children as her full siblings, and I wanted her to have the right to say, "I don't want to know you," or "I do want to know you," whichever she wanted. It was up to her, but I wanted her to have that opportunity.

Knowing my daughter now for 12 years has been the joy of my life. I stopped thinking about her every day of the week. Every morning as I awoke, I would think about her and wonder if she was all right: did she need help, did she need to know us, did she need money for university, did she need anything? When I found her, I stopped doing that. I stopped agonizing over where she was and if she was well.

Since that time, my daughter has presented us with a beautiful grandson. He was eight months old yesterday.

We know her family; she knows us. It is the ideal, but it hasn't been easy. She has two families, that's all. We don't muscle in on her adoptive family life; she doesn't muscle in on whatever. We are two blended families. It works and it can work. So that's my story.

Since then, and during the last 15 years, I've been involved with Parent Finders because I was so upset with the system. I became the registrar of a very large group in eastern Ontario, in Ottawa, and it is a large group. It's the second-largest in the province.

Over that time, I have personally been involved in over 800 to 1,000 reunions, so I know what a reunion entails. Not all reunions are happy; not all reunions are sad. Reunions are what they are—they are the bringing back together of family members who have been separated in some way. They don't need to have expectations of perfect joy. None of us in our normal lives has perfect family relations. Some of us have relatives we really don't want to spend time with and other relatives that we love to spend time with, and that's OK. It's fine not to like what you find. The expectations that are set up sometimes with this whole reunion process are that it's got to be good or it's going to be terrible. I was really grateful to Mr Parsons for bringing up all the bugaboos and the scary ones, the scary stories, the potential for incest stories, rape stories, finding parents who don't want to be found, people who will stalk people. This is a human story we're talking about. This is normal, everyday life we're talking about. These are just people who would like to reconnect as blood relatives for the reasons that we all know and you will learn.

Over the next two or three days you're going to hear many people giving you good arguments—legal arguments, social arguments, psychological arguments, every kind of argument—as to why this is a good idea, but I can tell you, as a birth parent, I would have liked to have the mechanism within the system that I could have found my daughter, who was over 21 and an adult—and I was well over 21 and an adult—without going through the hoops I did. It was unfair and unnecessary.

Since my time with Parent Finders, I have seen every kind of situation and reunion story possible. I have heard all the stories. I have had international adoptions, I've had cross-border, cross-country, crosstown, cross-anything. These are all just human stories.

1610

I've also personally run, with another lady, an intensive support group for people for more than five years, dealing with the long-term issues around this. Closed adoptions and secrets create huge problems. They can be very rife with issues. Secrets are not healthy. Secrets create fantasy and myth, and you will hear more about that from other people, I'm sure. Current psychological studies on adoption generally find that many people within this closed adoption system suffer a lot from the secrecy. It is not a healthy thing to have. It is better to know the truth than to know nothing; nothing breeds fantasy. People create all sorts of myths, so it's a problem.

For adoptive parents, all the adoptive parents I have personally helped to assist their grown-up children to find their birth families have had better relationships with their children and, as good adoptive parents, have wanted what was best for their child. If it was best for their child to find their birth family, so be it. I have helped adoptive parents of very young children find their birth families, always with success—always. In all my years in this business I have had perhaps three or four birth parents refuse contact, and it has usually been around the reason you gave: they didn't tell their families. But over time, if gently treated, if it is possible for them to know the child who is now an adult, it can happen and it can work well. They don't have to spread the word to the entire family. There are ways to deal with this.

We have found, and I have found, working in this system, the closed system, that the delivery of service in Ontario is not even across the system. Although the government likes to tell us of the improvements to the adoption disclosure registry—"Yes, indeed, seven years is now one or one and a half"—it wasn't seven; it was more like 14 that people waited. I have had people come to Parent Finders who have been 12 years on the waiting list for search service—12 years. In that time their birth parents have died; people have succumbed to all sorts of things. It is problematical. The delivery of service within the agencies is not even. In some agencies you wait five years for non-identifying information—five years for two or three pieces of paper about your background. In other agencies it's two or three months. In some agencies there's no service at all if the adoption disclosure worker is away: "No service, sorry"; mandated service, but "Sorry, we can't help you."

We have also found that insufficient information is given to people when they go to the agencies. They are not always notified about the adoption disclosure registry, about all the services available. Many agencies are very good about that, but not all. Sometimes we have found over the years when these problems have piled up that the government has thrown money at the ADR, hired a few new staff, reduced the levels, taken away the pressure, and it's gone again. We in the parent finder groups get the backlog. We are inundated, and have been for years and years, with people who are not getting service from the government. We're free and we're volunteers. It's not fair; at a human rights level it isn't fair.

This bill, Bill 77, is a start. It isn't the perfect bill, there are a lot of things missing in it, but in the interests of passing it, many in the adoption community have agreed to accept much less than they would like in order to have something happen to improve Ontario's adoption laws. They're not good enough. BC has had its adoption records open for years and there isn't a problem. There really has not been a problem. The idea of people coming out of the woodwork and stalking each other—if you knew the adoption community, they are a very cowed, shy, shamed group of people. They tend not to go out and stalk people. If they did, we have stalking laws, we have harassment laws and we have a lot of other laws. What

we're doing is criminalizing the need for blood relatives, the need within blood relatives to reconnect. How can we equate them with bank robbers and with other criminals when these are just family members trying to find each other? So we have criminalized a whole group of people by suggesting that they might want to break the law in order to find each other. We have to be careful not to pathologize the need to have a reunion. We make it almost into an illness that you should want to know your origins. I find it bizarre that we would pathologize the need to reunite with one's birth relatives.

The last item I'd like to mention is the retroactive quality of the clause. We are all representing the past. We know that today's adoptions, the few that take place, tend to be open. Adoptive parents today understand what we're talking about. We're talking about 1950, 1960, 1970. We are the survivors from that time, and that's why we want this bill to be a retroactive bill. It's no good opening it up now. It doesn't help me or my daughter or anybody else's son, daughter or parent in this room.

One last item: there was a large ad in the Ottawa Citizen the other day about disabled people and the provincial government being very interested in providing full service to special-sector groups to make them equal in Ontario. I consider the adoptive community a special-sector group, and if the government is committed to making access to services fully available, then this is a special-sector question. Thank you.

The Chair: That affords us about three minutes left, and it's normally the practice of the committee, when it's that amount of time, to allocate it to one party. We always start the rotation with the official opposition, so I afford the opportunity to Mr Parsons.

Mr Parsons: We're not enemies. I can appreciate what you're saying but I've seen different strata of society in my 25 years with children's aid than you have. I have seen children give up for reasons that I suspect may not be represented in this room. If changing the law would destroy one mother's family in my riding, then I'd have to be concerned.

I was intrigued that you strongly believe that secrets are bad, that there should be no secrets. Two minutes later you said, "There's no need to spread the word to the other children." I would infer that means to keep it secret from the other children. I wonder if you can clarify that for me.

Mrs Byrne: OK. When a birth mother wants to keep private some of her personal life when she has not yet told all the family, we don't believe that it needs to be broadcast immediately. The secrecy part comes in the origins of the adoptee and what happened to the adoptee with the birth parent. They are the principals in this issue and the secrets should not be between them. That's what I mean. Other family members who are not relevant in the story may or may not find out later.

Again, we create issues. I have had birth mothers come to me and say, "My husband doesn't know. This is going to destroy my marriage"; and a little while later I'd say, "Are you sure this will destroy your marriage?"

Because if this will destroy your marriage, what kind of a relationship have you got?" One could pinpoint and blame adoption revelations for the destruction of the marriage, but I would suggest that there would be other problems there. Usually when I have had birth parents say to me, "I don't want my husband to know," we can work it out so that the husband for a while doesn't need to know and she will tell him in time, in honesty. Again, in my experience from many of these reunions with exactly that problem, it is just a paper tiger. It isn't there. That's from my experience.

The Chair: Thank you very much for coming before us here this afternoon. We appreciate your presentation.

1620

ADOPTION REFORM COALITION OF ONTARIO

The Chair: Our next presentation is from the Adoption Reform Coalition of Ontario. Good afternoon. Welcome to the committee. Again, we have 20 minutes for your presentation.

Mrs Patricia McCarron: Thank you. My name is Patricia McCarron, I'm here also as president of Parent Finders, National Capital Region. ARCO, or the Adoption Reform Coalition of Ontario, is our lobby arm, if you can call it that.

Very quickly, I am an adoptee reunited 10 years ago and I joined Parent Finders in 1991.

Just to give you a brief update on what Parent Finders is, we are a volunteer support group. We have our own private registries, and we believe in having people who have been separated by adoption reunited. We are part of a national organization. There are many chapters here in this province, but we connect with other groups across the country.

In our own database we have 12,000 birth entries. We've been involved in over 1,200 reunions. We've registered over 3,000 active members and we've supported and/or co-sponsored at least six previous bills on adoption disclosure in Ontario. We're also part of an international network of search and support groups. Let's just say we're well connected.

The PFNCR started in 1976. We had our 25th anniversary in June and I brought my souvenir mug to show you. When I stop and think about it—25 years in business trying to put ourselves out of business and I keep saying this to our members. We're here to help people find, we want to help open the records and we've been active in lobbying during all that time.

The change is long overdue. We fully believe that this bill is a good start. Again, it's not everything that we would like, but we're definitely behind it. The changes to the Child and Family Services Act that occurred last year addressed the needs of children in care. They did not address adoption disclosure. However, this again is a good start, and thank you, Marilyn.

Basically, I'm just going to give you our position on Bill 77 regarding the first amendment, which would give

adult adopted persons unqualified rights to access their own birth information, and the corresponding rights to birth parents. We obviously fully support this and, based on other Canadian jurisdictions and others across the world, we believe that for adult adoptees to access their original birth information is a civil right.

We firmly believe in the principle of equal access and this is why it's so important that Marilyn has brought in birth parent rights. At some point you may also consider extending that same privilege to adoptive parents and minor adoptees, because we have had members in our group trying to search for birth parents of minor adoptees.

Something for you to think about: say you were to enact this bill tomorrow and I got my original birth certificate; that does not mean an instant reunion the very next day. A lot of people get scared with that idea. They think there are going to be 20,000 reunions the very next week. That's not what's going to happen. All you do is get access to a form that's 45 years old. It gives you information that's 45 years old. It gives me, maybe, a full name and an address; maybe my birth father's information if I'm lucky, if it's on there. Then I go on my search. I still need to do all that work, if I want to.

I personally sat on my birth mother's name for 13 years. For that period of time all I needed was the name. For a lot of people just getting a name is very important. Many of the adoptees born after 1970 only have an initial for their last name on their adoption order—Patricia M—with a number—12345—very degrading. You sound like a bar code. So, again, for many adoptees, just getting that name is very important.

Now, the next amendment, which would allow adult adopted persons and birth parents to file written notices, the infamous contact veto: Parent Finders is fundamentally opposed to any vetoes of any sort, but we do acknowledge the need for some kind of a mechanism which would respond to concerns of some people for limiting contact. Again, it seems bizarre and unreal that we have to have legislation to impose punishment on family members who want to reconnect. Again, go to the no trespassing notices, the restraining orders, whatever is already in place, but for gosh sakes, don't create a new law just for us.

We wish to clearly emphasize that where there have been contact vetoes in other legislations, it hasn't been a major problem. The default system right now is for protecting and closing everything and now that has shifted. You have to put the legislation back so that the default is for those who want to search, not for those who want to have it closed. Where there has been an opening of the records, I think the number of people who have placed contact vetoes is about 4%. So you've got a law for 4% of the people trying to keep it closed. What about the other 96% is what I'm trying to say.

The third amendment would eliminate the need for mandatory counselling before a reunion takes place. We absolutely, fully support this amendment. We feel the client should determine his or her need for counselling

before or after a reunion takes place, whether it's from a professional social worker, a counsellor or just some peer counselling from a volunteer support group.

The last major amendment would entitle adult adopted persons to access their information at age 18, while the birth parents would be able to access the information on the adult adopted person when they reach the age of 19. Again, we agree to this.

We would definitely, definitely support anything that would include backdating the legislation. You cannot invoke this from this day forward. You barely need to. Most of the adoptions now are outside the CAS and they're open. There's nothing in law right now to recognize open adoption, so that needs to be addressed as well.

The issue of funding: I'm sorry Mr Parsons is not here. He mentioned adding more money to the system. No, you can cut staff at the ADR, you can reduce the need for searchers and you can increase your revenue at vital statistics by charging \$50 or whatever for a long-form birth certificate. So there you've got some revenue coming in and the possibility of reduced staff at the ADR once all those lists are down. Again, I think the funding issue would be more in the government's favour.

Personally, I do not need this legislation. I found my family, I have a good reunion. It's 10 years later. Why am I doing this? Why am I here yet again, taking two days off work, travelling a thousand kilometres, re-arranging child care? Because I believe in what this is all about, I believe in what I am doing and simply because it's wrong—the law is wrong and we have to right it. It's now up to you to do so. Hopefully, this is the last darned mug I'll have to get made and we will not be in business in the next 10 years, other than for peer support or peer counselling or something like that.

I remember on one of my visits to one of the members, he said, "Private members' bills are notorious for not reaching the top of the pile, but if it's a good bill and the subject is strong enough, they go, they come, they go and the good ones rise to the top." I can only pray that he was right and that we're finally at the top of the heap.

Thank you very much. If there are any questions—

The Chair: You have, in fact, left us with about 11 minutes for questioning, so we'll divide that among the caucus and start this time with Ms Churley.

Ms Churley: Thank you for your presentation. I'm in the same position as you. I don't need the law for me any more, but I want it there for the countless others, and basically for the same reason: the existing law is fundamentally flawed and wrong. Other jurisdictions have figured this out. There is all the evidence, as you pointed out, around stalkers and all these things that I acknowledge people have concerns about. It's our job to listen to those concerns and be able to respond positively, because we've done the research. We've got it all here.

I guess my question to you would be around the biggest concern that I'm hearing from those who are frightened by this bill, concern about the birth mother, and it's very real. I've talked to some who have been in tears: "If my husband finds out about this and my other

kids, it'll finish the marriage." I've explained to them that although lots of people in the adoption community do not like the no-contact veto, that is why it is there: to give them and those legislators who are concerned about this that comfort. I would like you to expand on the information you have around how that no-contact veto has worked in other jurisdictions.

Mrs McCarron: From what I understand, especially in the New South Wales jurisdiction, and even in BC, the figures have been about 4%, as I mentioned. The ones placing vetoes, especially in New South Wales, have a system where you put in a written reason why you do not want contact. Maybe someone's going through an illness, a divorce, a death, or whatever; it's not a good time in their life to have a contact. That's fine. It doesn't mean that tomorrow, next week, in six months or a year they would not wish to have that contact. Do not close the doors forever, which is what we do now. They get one chance when they get contacted by the ADR and then that's it. So, if you must impose the no-contact veto, at least impose the necessity of putting in a written reason. If I'm an adoptee and my birth mother writes me a letter and says, "Please do not contact me. My family doesn't know," for this or that reason, that's all I need to know. I'm going to respect that. At least there's some contact, some feedback.

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Let me give you a personal side to this. Mr Parsons mentioned the infamous argument about incest and rape. Those are the minor, few cases. I am a product of sexual assault. My birth mother was not properly introduced to my birth father. What can I say? Fifty per cent of my genealogy is gone forever; I will never know. However, she was more than happy to have contact with me. She was told that when I turned 18, I could go looking for her.

She had no knowledge, no concept at all, of her rights. She didn't think she was allowed to search. She had no idea what the Child and Family Services Act would allow her to do, and she was more than happy to hear from me. Again, she wasn't happy about the circumstances surrounding conception, but it didn't mean she didn't want to know me. I contacted her privately. The rest of her family—the siblings at the time—did not know. You can do that in a calm manner. You can do that one-on-one. You don't have to go in with guns blazing, and that's what we try to tell people when they're making these sensitive approaches. Does that answer your question? I sort went off the track.

Ms Churley: Yes.

Mrs McCarron: Any other questions?

Ms Churley: I think my time is up.

Mr Joseph Spina (Brampton Centre): Thank you both, you and Monica Byrne, for making your presentations. We appreciate it. I'm not sure whether Ms Churley is proposing amendments; she's likely looking at some things. We'll have to look at that when the time arises.

The interesting thing really is around the contact veto here. As you know, part of the concern of the government in general is that—

The quorum bell rang.

Mr Spina: A quorum call, I guess. Sorry, folks. It's part of life in this building.

Part of the concern around your proposed amendment around the contact veto—you cite the situation of the other jurisdictions. I'm wondering what would be—I'm not sure whether it would be better or not—the difference in the approach. "Contact veto" would mean the files are disclosed or are open, and then if someone wished to declare a veto for contact, it is made at that point.

Mrs McCarron: Correct.

Mr Spina: I'm wondering if the converse would be as effective, where the files remain closed and the consent is sought when the request is made by either party.

Mrs McCarron: I'm sorry; I don't understand the converse.

Mr Spina: At this stage, I think the assumption would be that the files are open unless someone declares a veto for a contact.

Mrs McCarron: Yes.

Mr Spina: The converse would be that the files would be closed, as they are now, unless consent is received upon the request.

Mrs McCarron: Which is what we have now.

Mr Spina: The concern we have is on the part of the privacy commissioner. The way the current privacy laws are designed for the protection of the consuming public and for the files, the files would remain closed. The Information and Privacy Commissioner is viewing the bill as it's currently proposed—it doesn't mean it can't be amended. But as it has currently been tabled, the privacy commissioner has a problem with that. I just wonder if you have a difference in the perspective of how that would be handled.

Mrs McCarron: I guess it's back to balancing the rights of the adoptee to know who they are and where they came from—what we call an unqualified right of access; in other words, no disclosure veto, I absolutely have the right to know my birth name—versus the right of a birth parent to know that their adopted child is OK. So you're balancing the rights of access to information, and that's why I said a while ago that I believe—Parent Finders believes—in the right of equal access: the adoptee, the birth parent and the adoptive parent. They're all involved in this. You can't pull one out, I don't believe. They're all connected. I don't think you can separate.

If you don't do anything, if you leave it closed, as you're saying now, then we're right back to where we started and nothing is changed. The contact veto is there for you; it's not there for us. It's there to make people feel better. It's there for the 4%, and it's there for you to have something to take back to the birth moms or whoever wants their files to remain closed. That's fine. I concede that point; a lot of people won't. But I still believe in the unqualified right of myself, of any adoptee, to know who I am. I think that's paramount.

I also believe it was my birth mother's right, if she'd known about it, to come and look for me. If I didn't want to meet with her, I could tell her no. Once contact is made, no, you can't undo it. But on the other hand, at least they know who you are, you know where the other person is. It's like a marriage. Things don't stop on the wedding day. The marriage goes on after the wedding day. The reunion goes on after the reunion takes place. Everything gets hyper at the moment of contact, but after that, things settle down. In our experience, it takes seven years, 10 years, for things to settle into a normal stream.

I've been in my reunion for 10 years, and I'm still adjusting and things are still happening. Things aren't rosy overnight. It's sort of a life experience. So again, even if it's bad at the beginning, things can change, people can evolve. You deal with it, whether it's a happy story or a not-so-happy one. It's the truth; I deal with it. That's my fact of life, and I go on. What more can I say?

The Chair: Thank you, Mr Spina.

Mrs McCarron: I think my time is up.

The Chair: No, now we're over to Mr Parsons or Mr Colle, if they have any questions.

Mr Mike Colle (Eglinton-Lawrence): I guess the question I have is, trying to get a complete perspective on the issues that have been brought forward with this bill, how could we ever expect to hear from, let's say, the birth mothers who don't want to have disclosure, since they would be very much against letting themselves be known to us or wouldn't write letters or call us because they're trying to perhaps conceal it or still keep it very confidential? How is it possible for us to estimate their feelings or their comments on the legislation?

Mrs McCarron: I come back to my 4%, and that's what we call hard figures in terms of the number of contact vetoes that were put in by birth parents in jurisdictions where this legislation has gone through. Personally, I can come and tell you all about the people who joined Parent Finders. Obviously, they're searching; they're not the ones who aren't searching. The ones we have helped in their search and whose birth mothers did not wish to be found—yes, we've had them. We can still have a contact; it doesn't mean you have to tell the rest of the family. But again, it's one of those myths where everybody throws up that birth mother, and that's what Monica was trying to explain. Everybody's always talking for the closet birth mother. There are not that many of them, and that's what we need to change in our way of thinking. We've got to change the default system.

Mr Colle: How do you arrive at the figure—the fact there's not that many of them? What is it based on? I'm not quite sure.

Mrs McCarron: Statistics from the other jurisdictions that have counted the number of contact vetoes that have been filed: New South Wales, Australia and BC. They're all around that figure. If I'm wrong—

Mrs Byrne: Three to four per cent.

Mrs McCarron: Three or four per cent.

Interjection: It's 2.5% in BC.

Mrs McCarron: And 2.5% in BC is the updated figure. They've had it in place for four years. I'd say the figures speak for themselves.

Mr Parsons: Is there time to follow up?

The Chair: Yes, you have about a minute and a half.

Mr Parsons: That 2.5% to 4% would reflect where the adoptees have tried to find the birth parent and the birth parent said no?

Mrs McCarron: No, it's the number of birth parents who have placed a contact veto, a wish for no contact.

Mr Parsons: They've just gone to a registry, then, and placed that?

Mrs McCarron: When the British Columbia government enacted its legislation, they did this massive ad campaign and basically said, "Anybody who wants to put in a contact veto has one year to do that." The ones who did had the chance to do that, and I guess they continue to update those notices every now and then. Initially, the numbers were a little bit higher, and now they're down to 2.5%. So it becomes a non-issue. What they found in New South Wales was that after 10 years there are hardly any contact vetoes put in place. Open adoption disclosure is a normal way of life, and it's not a big deal any more.

Mr Parsons: I really sound like I'm arguing, and I'm embarrassed about that, but could it not be that for some birth mothers, going forward and filing a veto would, from their viewpoint, be making a disclosure?

Mrs McCarron: No, that's a disclosure to the adoption disclosure registry. It would not come to the adoptee.

Mr Parsons: I understand that, but there could be a fear that once you tell the government—

Mrs McCarron: They already know. He's got my file, he's got my birth mother's file. They know they're on file. They had to go through a court system. There was a judge who signed the adoption order. So they're in a file already, for better or for worse. I hope that answers that question.

The Chair: Thank you very much for coming before us here this afternoon.

Ms Churley: Could I have a point of information just very briefly, and it really is a point of information. I'll prepare a written report on the freedom of information act. I did consult with the commissioner, and she says in her report that it falls outside the scope of the Freedom of Information and Protection of Privacy Act. But she then goes on to give her opinion, as have FOI commissioners who have said almost identical things in other jurisdictions where they went ahead anyway, because it's fundamentally a public policy issue. The concerns in fact never happened. I will prepare some information for the committee on that. I think you'll find it interesting.

1640

PARENT FINDERS INC

The Chair: Our next presentation will be from Parent Finders Inc. Good afternoon and welcome to the committee. Would you introduce yourselves for Hansard.

Ms Holly Kramer: Good afternoon. My name is Holly Kramer and I'm the president of Parent Finders Inc. With me here this afternoon is Brian Macdonald, who is the vice-president of PFI.

We'd like to begin by saying that we bring a perspective to this committee which may be a little different from other presenters. As you've heard, Parent Finders Inc is the oldest and largest peer organization for members of the adoption community in Ontario. Representing our 17,000 registrants, who are adoptees, former crown wards and birth and adoptive relatives between the ages of 18 and 85, we bring more than 26 chronological and countless cumulative years of experience about searching and reunion to this forum. As a result, we are in a uniquely good position to comment on the necessity for and potential effects and general workability of the provisions in Bill 77.

I'd like to add here that in 26 years we have never had anyone who came through the Parent Finders registry and had a reunion say that they wouldn't do it again, regardless of what the outcome of that reunion was, no matter how good, no matter how bad.

It's National Adoption Awareness Month, and once again we have come before a standing committee to make known our position on the blatant discrimination inherent in existing adoption disclosure legislation. This is legislation that was enacted in the early part of the last century and hasn't changed much since. As others have told you, this is the fourth time we have come before such a government committee, advocating reform and redress since 1977, and the fifth attempt at fundamental change since 1994, when Bill 158 gained all-party support but was filibustered, out of ignorance or fear, by two or three members of the Legislature to prevent it from coming to a fair vote.

With that in mind, one apparent concern about the disclosure of adoption information concerns the identification of so-called putative fathers. Some people seem to be unnecessarily concerned about disclosure of information contained on birth certificates because they don't understand that the name or other particulars about a biological father is not contained on any statement of live birth unless he signed the document at the time. Further, adopted persons cannot make any claim on their birth parents' estates unless the adoptee is specifically named in the will. Although concerns about allegations of paternity or claims respecting inheritance are unfounded, they may fuel some of the resistance to change.

As you've heard, in 1979, Ontario enacted North America's first adoption disclosure registry. This was a first step toward recognizing the basic human right of adopted persons to have access to their own birth information, a right taken for granted by all other Ontarians. As Ms Churley was pointing out, since Ontario took that first step, all the other provinces and several of the states have followed suit. British Columbia even granted full disclosure to both adoptees and birth parents in November 1996. All of those places have done it retroactively. But progression toward equality and honesty

has been at a standstill in this province for almost 23 years, despite the repeated government-commissioned studies and the round table discussions and public consultations, all of which have recommended over and over again that adults should have equal right of access to their own birth information regardless of whether or not they happen to be adopted.

Seven years ago when we came before a standing committee there was some concern expressed about whether the volunteer network was prepared to meet the demand for information and support, should disclosure laws be changed. Of course, a major effect of implementing Bill 77 would be to give people access to information which is in effect as old as they are. They would need to know how to interpret this information, what they could do with it. The question was, is the peer support network ready to handle a huge influx of clients that local CASs might not be adequately funded to service if the law changed?

In 1997, Parent Finders Inc, in partnership with some 40 similar organizations across Ontario and the Adoption Council of Ontario, and with over \$100,000 in funding support from community and social services, produced a search manual for adoptees and birth relatives as part of the Adoption Community Outreach Project, or ACOP. You all have a copy of this manual before you, and I encourage you to take even a few minutes to peruse it and certainly to share it with any friends or relatives who may be members of the adoption community. I would like to remind you that one in five Ontarians is directly affected by adoption, whether they are aware of their status or not.

This resource, which was produced at taxpayers' expense, is a virtual map to the search-and-reunion process, providing both practical and philosophical advice to those who seek reunion with family from whom they have been separated by adoption. The search manual is the culmination of immeasurable years of experience of members of the adoption community who have searched and been reunited. It has been used by countless people to provide them with instruction on how to find and contact their birth relatives in a discreet, respectful and non-intrusive manner. Last year, a reprinting was necessitated due to overwhelming demand for copies, and this resource continues to be available province-wide through the volunteer network and branches of the Ontario Genealogical Society. The peer network is more than prepared to help people use their birth information wisely and for the benefit of all concerned. We have fulfilled our part of the bargain, but we're still waiting for the government to hold up its side of the deal by enacting new legislation.

Seven years ago, representatives of both the Ministry of Community and Social Services and the Ministry of Consumer and Commercial Relations came before the standing committee on social development, as I hope they will have an opportunity to present to this committee, and outlined in detail precisely how straightforward it would be for them to release original birth

information to individuals upon request. Unarguably, technological developments in the interim have made this task even easier than it would have been then. The registrar general's office is in the midst of instituting sweeping changes to the way in which citizens apply for and obtain their birth certificates in this province. The timing for including changes to recognize the rights of adult adoptees couldn't be better.

It bears repeating here that regardless of what laws, policies and practices may be, people have been taking matters into their own hands and have been searching and finding each other for decades. The basic human right to know one's own birth information exists. All that remains is to acquire legal recognition of this fact.

I wasn't going to bring my personal story into this, but I think I would like to tell you that I found my birth mother 22 years ago. In fact, on October 31 it was 21 years, and I had then known her longer than I did not know her. I don't need this law either. I'm in this for the people who come after me to this realization that they have a need to know or a right to know.

There has been a certain amount said about adoption disclosure and the Freedom of Information and Protection of Privacy Act. Adoption disclosure is in fact exempt from the Freedom of Information and Protection of Privacy Act. Otherwise, adopted people would be able to access their own birth records, just the way everybody else has right of access to any government record pertaining to themselves: birth records, school records, drivers' records, you name it. You should consider this first if you take into account anything the freedom of information commissioner may have to say about Bill 77.

There are 11 provincial acts in Ontario where FIPPA exceptions apply. These include the Commodity Futures Act, the Crown Employees Collective Bargaining Act, the Pay Equity Act and the Securities Act. Those exemptions are in place specifically to protect investigations of various commissions or matters of national security. For instance, disclosure may be refused "where the disclosure could reasonably be expected to prejudice the defence of Canada ... or be injurious to the detection, prevention or suppression of espionage, sabotage or terrorism." I don't think that's what we're talking about here.

It's revealing to look at the other acts where FIPPA does not apply, and particularly at those sections of CFSA dealing with things other than adoption that are excluded from FIPPA. There are six sections of CFSA where FIPPA exemptions are in place. But apart from adoption disclosure, nowhere are adults barred from access to their own personal information. In every other instance, besides adoption disclosure, the child, who is the primary client, is allowed access to his or her own record at the age of 12 unless the court determines that undue emotional harm might result. Even then, nothing precludes that person from going back and getting his record once he has attained the age of majority. It is only in those sections of CFSA, the Vital Statistics Act and the Courts of Justice Act that apply to adoption where there

is complete dismissal of a citizen's right to information or documents held by a government body which pertain to him or her.

Adoption disclosure is exempt from FIPPA, but it is imperative to remember that the current disclosure law would become largely redundant if FIPPA did not apply here. The FIPPA commissioner's comments, concerns or opinions are therefore immaterial, and the provisions of Bill 77 are urgent and indispensable, unless, of course, this committee considers recommending that those FIPPA exemptions to the acts governing adoption disclosure be rescinded.

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As I explained in the last round of these hearings, any promise of confidentiality to birth or adoptive parents was not a covenant of anonymity. Certainly both birth and adoptive parents have a right to have their confidentiality protected from public inquiry. Indeed, this was the spirit and intent of the law that sealed birth and adoption records some 70 years ago. But confidentiality is very different from the concept of perpetual anonymity from the person who is adopted. If this was not the case, birth names could never have appeared on adoption orders, as they do. The law provides a necessary and effective shield from public scrutiny, and Bill 77 would not change this. Enforced anonymity is a later development in social work practice and is a derangement of the intent of a law which was enacted, and persists, allegedly "in the best interests of the child."

There is some potential for amendments to the bill currently under consideration by this committee. You might decide to recommend Bill 77 the way it stands or radically alter it. But the critical aspect of any new adoption disclosure legislation is that adopted persons must have the same right of access to their own original birth information as do non-adopted persons. The current disclosure law is clearly discriminatory and violates both the national Charter of Rights and Freedoms and several UN conventions.

As MPPs, you should all be aware that most of this is not general public knowledge, in part because adoption, as the media generally present it, and therefore in the public mind, is often seen as a soft "family" issue rather than the solid human rights issue that it actually is.

When people are told about these discriminations, at first they are quite disbelieving. They say, "This could not be true in Ontario," and then they become indignant and say, "This should not be true in Ontario." We find that well-informed people, and even people who are affected by adoption and disclosure, honestly think that these matters have long since been resolved. They think the adoption disclosure registry is a place where adoptees can go and look up their own birth information. You have to understand that that is what the public thinks. That is what in many cases your constituents believe.

The idea that there is a big black book downtown someplace where you can go and look this stuff up is not just a naive idea. This is how adoption disclosure has operated in Great Britain since 1975. Our system should

have followed suit then, and should certainly do so now, more than a quarter of a century later.

You may know that there is a case currently before the Ontario Court wherein an adult adoptee is suing the Toronto Children's Aid Society for their failure to disclose to her medical information that would have spared her and her three natural children pain and suffering. I think you're going to be hearing from somebody from OACAS and also from the children's aid society. In that instance, the agency in turn is suing the applicant's birth mother. Obviously, the official helper believes that somebody has to be held accountable for the fact that adoptees should, but don't, have unrestricted access to their own information like everyone else does.

We would like to close by reminding you that it was a Conservative government that led the way in beginning the reform of North American adoption disclosure law right here in Ontario more than two decades ago. Our government showed a great deal of insight and leadership on this issue in the 1970s, and this is precisely the kind of responsible leadership that we are trusting our elected representatives to show now.

The Chair: C'est tout? Thank you very much. That affords us about six minutes, so two minutes per caucus. This time we will start with the government.

Mr Miller: I'm interested in the no-contact rule and how it has worked in other jurisdictions, if you're familiar with that. I believe you said that the current rule has been in place in British Columbia—for how long?

Ms Kramer: Since November 6, 1996.

Mr Miller: Roughly 2.5% of the people don't want any contact made with them. Are there many cases, or any that you're aware of, of people breaking the no-contact wishes?

Ms Kramer: None that we're aware of.

Mr Brian Macdonald: I was speaking with their registrar. Their disclosure registry and the vital stats people have slightly different figures, but basically they were unaware of any real problem with people breaking the veto. They gave me the numbers per year of people lodging vetoes. Even then their figures are a bit difficult to interpret because there's a number of applicants who were listed as vetoes when they started but who were upgraded to veto status from simply saying, "No, I do not want contact at the minute," from earlier activity in their register. There are 2,700 or so vetoes on their system already—and when they started in 1996—that may not be vetoes but may be simply upgraded "I don't want contact right now," requests. So their numbers might be even lower than 2%, but as far as the person I was talking to knew, there hadn't been breaches.

When we did the numbers in 1994 for other jurisdictions, we found that the numbers of breaches were extremely low. We anticipated that, with the legislation as it stood then, we might expect three or four breaches for the whole population of Ontario, the 220,000 or so adoptions. As has been mentioned, as a population we are very inclined to respect something like an information veto or a contact notice, because adoptees specifically are

very sensitive to what we call second rejection. The idea of going ahead and doing this at all takes great courage. The whole business of going and meeting a blood relative when you have never met one before is quite daunting. I think the problem of people breaching these notices will be nonexistent.

Mr Colle: In terms of the attempts by children to find their birth mothers, with the use of the Internet has it become easier to get information? Has that been helpful, or has it made any appreciable difference?

Ms Kramer: First, let me correct you. We're not children; we're adults. We haven't got children out looking for their birth parents. We have adult adoptees doing it.

Mr Colle: We're always children; my mother tells us that.

Ms Churley: Speak for yourself, Mike.

Ms Kramer: We're only children in the eyes of the law, unfortunately, and we're trying to change that.

Yes, the Internet is the same way that you do research. In the olden days you had to call every area code, long distance directory assistance, to look for listings. Now you simply go on to Canada 411 and do it. There are Internet-based search registries where people can match up if the birth parent and the adoptee both register. Then there would be a match made through the volunteer peer network.

Mr Colle: Has it made an appreciable difference or not, do you think?

Ms Kramer: I believe it has, yes. It's made things happen perhaps a little bit more quickly in some instances. Most of the Parent Finder and related organizations have search and support meetings once a month and maybe have some telephone contact with their membership in between. So all of that stuff on the Internet has made it so that you can do this every evening for a week in your own home, and there's much more contact on, say, things like the CANADopt registry or the Canadian Adoptees Registry Inc, CARL, out of Barrie, Ontario.

Ms Churley: I'd like you to meet Holly Kramer, the woman who found my son. Welcome.

I think that last question hit upon an interesting subject, because my bill has a no-contact veto, but I refuse to put in a no-information veto. I know that BC did that and they're about to, in fact, amend the bill, which is a good thing. Most of the bills do not have that. There might be some move afoot to do that. I just think, fundamentally, that adult adoptees have the right to that information. I'd like your comment.

One other thing about the question that was just asked, more and more people are finding each other anyway, and the interesting thing about this bill is that it's got a no-contact veto. Under this system, an open system, the birth mother, about whom people are so concerned, would actually have the ability to register that no contact. Because of the weird system we have now, which doesn't work, they can't do that.

Ms Kramer: That's right. As Brian was mentioning, it certainly is true that most people would like to know

going in whether there is some trepidation on the other person's part. We don't go trampling on people's toes.

In British Columbia, where they had the vetoes, the first thing that happened the day after that legislation was passed was they discovered that it was unconstitutional, and they've been fighting about it out there ever since. So why would we want to make the same mistake here?

Ms Churley: You mean the information veto.

Ms Kramer: That's right. I don't know why we would want to go through that exercise of putting something like that in only to have it challenged and to have to take it back out.

The Chair: Thank you for taking the time to come before us here today.

1700

LESLIE WAGNER

The Chair: Our next presenter will be Leslie Wagner. Good afternoon and welcome to the committee. I just remind you that we have 10 minutes for your presentation.

Ms Leslie Wagner: My name is Leslie Wagner. I'm a mother who lost a son to adoption in 1983. I actually brought the last picture I have of myself and my son together, because I think a picture says a thousand words, as the cliché goes. I'm very nervous, so please bear with me. This is very difficult to do.

I'm here today not only to support open records but because there are many myths and secrecy within the adoption community which need to be addressed and verbalized by those of us who are directly affected.

The first myth I would like to dispel is that this was my choice. Being 17 when my son was born, I knew nothing about adoption. It was presented to me by the doctors and social workers who emerged into my life. I know for some girls their parents made the decision for them. It was explained to me that in the best interests of my son he be placed in a financially secure home where he could reap all the material benefits I would apparently not be able to provide for him, even though I was still in a relationship with my son's father. I was told that keeping him would be selfish and that he deserved to have more. I was led to believe that adoption was the only option which would benefit my son.

I now know that financial struggles are temporary and adoption is permanent. Had I been told the truth about the effects of adoption, my son would never have left my side. It's taken me years to forgive my naive 17-year-old self for believing I wasn't good enough for my son, as the professionals insisted.

Myth number two is that all children placed for adoption are unwanted, abandoned or abused. This absolutely false notion I find appalling every time I hear it. I loved my son 19 years ago and my love for him has only grown over the years. I've met many hundreds of natural or birth mothers, as we're called, in the last six years and every one of them loved their babies and wanted to keep them. Our children were taken from us

because we were young and unmarried. Guilt and shame were the tools used to have us surrender our parental rights under the guise of being virtuous, doing the best thing for the baby. Not only were we supposedly providing our children with a better life, we were giving an infertile couple the gift of a child. Yet the media, and society as a whole, has classified us as child abusers, prostitutes, drug addicts and, most recently, stalkers. I refuse to be condemned by these outrageous lies and huge misconceptions of who a natural mother is.

My son deserves to know the truth about the circumstances of his adoption, and I am the only one with that information. Guessing or being misinformed about his adoption can cause him further undue emotional trauma.

My crime was having a child at a young age and not being married. For that I have been judged unjustly and punished with unimaginable grief. I have suffered enough and need to know what happened to my baby.

To justify the separation of a mother and a child, it's assumed that there is something deviant with the natural mother, and there the first lie is born: making it appear that the child is being rescued from an undesirable situation by people who are more deserving of a child, based solely on clout.

Natural parents' pain has been grossly ignored for far too long.

Our children carry the burden of compounded lies. Their identity is stripped from them and they have the false pretext that they were discarded by their natural parents, which can lead to abandonment and self-esteem issues as well as resentment. Any adoptee who wants to know their origins should not be denied. They never had a voice in their adoption and now they are prevented from finding their heritage. As Canadians, we should be ashamed of this blatant disregard for human rights.

The third myth pertains to confidentiality. Birth parents never sought confidentiality nor were we promised it. I have my consent form with me. Nothing on there says that. It's an archaic notion built on shame and has no place in the 21st century. In fact, it's quite the opposite.

I was told that a reunion with my son would be inevitable and that he would search for me when he was around 16, with his adoptive parents' encouragement and understanding. I was also told that his first name, the name that I had given him, was going to be kept. It was devastating to discover years later that both statements were false. Why had my caseworker voluntarily given me this information without any premise? It was clear I had been misled.

I began my search for the truth six years ago, and it was only last month that I met with the director of the agency which handled my son's adoption, only after he was certain I wasn't seeking litigation. I found this curious, because if everything was done legally, why was he so worried? I believe this is one of the main reasons facilitators are afraid, because they know there are gaping holes in the past procedures, and that is an understatement. There are currently agencies in litigation for withholding critical medical information. Over the next

year, you will see unprecedented cases come forward to challenge the closed system.

Today, concealed adoptions are virtually non-existent, which is why this bill must be applied retroactively to include all of us affected by past procedures. I deserve to know what became of my son. It's cruel and inhumane to forbid me that knowledge.

Getting back to my meeting with the director, as he skirted nervously through my file, he discovered a letter from my son's adoptive mother which was meant for me. It was dated December 1983. He couldn't tell me why it was never forwarded to me. He also didn't know if my son had ever received the letter I had written to him years ago. Both these letters were sent out of love. By opening the records, you allow us to receive that love, not have it forgotten in a filing cabinet or left to the discretion of a facilitator. It's an atrocity to keep our records closed.

Bill 77 will enable us to finally find out what has become of our lost loved ones and let us decide how we want to reunite with each other. Facilitators or the government have no right to keep us apart or deny any information meant for us to have. It's urgent that we be allowed to heal, physically and emotionally.

We have the veto in the bill for those who choose privacy. The onus should be on the natural parent to declare their desire not to be contacted, as they would be the one seeking to conceal a factual truth. The majority of us should not be held captive by their choice; we should also be permitted to choose.

Experiences where open records have become law demonstrate an overwhelming majority of natural parents welcoming the opportunity to share information. My son's natural father and I wish to put him in our wills. If we don't know his name, how can we do this? Perhaps we will have to create a law which will ensure that our last wishes are met.

Keeping the records closed forbids us from coming to a resolution. I don't know where my son is. I love him and I miss him. You have the power to help me find him and to help him find himself. There are only two ways to approach this matter, either from fear or from love. I choose love. Which will you choose? Please vote yes.

The Chair: Thank you very much, Ms Wagner. We appreciate your coming before us and telling us obviously a very poignant story. We really don't have time to get into questions with barely a minute left, but thank you on behalf of the committee.

1710

TERRY GARDINER

The Chair: Our next presentation will be from Terry Gardiner.

Mr Terry Gardiner: Good afternoon. I am Terry Gardiner and I'm an adoptee. I am here today because my life has been indelibly affected by closed-records policies in Canada.

I was born in Montreal, so my struggle relates specifically to Quebec's laws. However, this issue of closed

records gives rise to the same problems across Canada. As a resident of Ontario, I urge you to vote yes on Bill 77.

I began my search for my birth family upon turning 18—a legal adult, or so I thought. When social services were unable to locate my birth mother or even find evidence that she was alive, I requested a search for my birth father. It took 11 years of fighting, begging and finally the threat of legal action to convince them to look. It seems that in protecting her confidentiality, they couldn't look for him, because he had no right unless she gave him the permission to have any right. It took them just two weeks to find him. Finally in contact, the web of lies which for 29 years had kept us separated by closed-records policies began to crumble.

My birth father, Russell West, who now lives in Ottawa, cried during our first conversation. He welcomed me into the family. He wept tears of joy at my arrival and tears of sadness and grief over the almost three decades we had been separated. I was to learn that he had never been informed of my existence. The closed-records policies allowed for me to be made a crown ward, put in foster care and then sent to be adopted in a Third World country at six months of age, all without his consent and without him having any knowledge that he had become a father.

My case is an excellent example of the abuse that can occur when records are closed. The closed laws allowed him to be excluded from the relinquishment process and ensured he would never have a way of discovering my existence. As a result, even though I was born in Canada to Canadian parents, it was decided "in my best interests" to send me from a First World country to a tiny Third World nation. My situation is only one legacy of the closed system; however, systemic problems under such policies are inevitable outcomes.

If passed, Bill 77 will surely bring about more openness and accountability to the process of adoption in Ontario. I fought for 11 years for information which was my birthright. Bill 77 will ensure that future generations of adoptees will not have to invest this huge chunk of their lives in a process which no other Canadian has to endure. My adoption was a contract in which my interests were decided by others because I was a child. I am no longer a child and should have the freedom of choice which every other adult Canadian enjoys, especially in matters which go to the very core of who I am as an individual and as a human being.

At 20, I discovered that I was not the black West Indian I had been raised to believe I was, but in fact a Canadian with a bi-racial heritage. My birth mother is white and my birth father is black. This may mean nothing to people who have never had to consider the connotation of the colour of their skin, but it forced me to undertake a complete re-evaluation of my self-image and my racial identity.

Every other citizen is entitled to the truth about their birth. We adoptees have a legal fiction, an amended birth certificate, not because we have been convicted of some

awful crime or because we have been judged mentally incompetent; no, simply because we are adopted. Disclosure has nothing to do with birth parent confidentiality, as we would be led to believe, but rather is determined by whether or not the child is eventually adopted. There are many children who are relinquished by birth parents but never adopted who grow up in the foster care system. These people have full access to all identifying birth information. What about their birth parents' confidentiality? This demonstrates that sealed records are intended for the benefit of the adopted child, not for the benefit of the birth parent, and so the adult adoptee should be free to obtain that information.

This discriminatory policy of state-imposed and enforced secrecy makes me and every other adoptee, not just in Ontario but in Canada, second-class citizens. I am not "less than." No other adoptee in Canada, or at least in Ontario, is "less than." I urge you to vote for Bill 77 and recognize our rights. I hope that in 2002 and 2003, we will no longer be considered "less than."

As has been said before, the principles embodied in this bill have come before the Ontario Legislature in one form or another several times since the mid-1970s. Since that first proposal, adoption records have been opened in Great Britain, New Zealand, a couple of the United States, and right here in Newfoundland and British Columbia. Where it has been implemented, openness has been an overwhelming success. Predictions from some quarters to the contrary have proven baseless. That 2.5% number sticks in my head. As a representative of 97.5% of the population, should I be punished for the desires and the needs of 2.5%?

Finally, current disclosure policies have proven unsatisfactory. This legislation must be applied immediately and for all. Anything less will punish those adopted during the past 50 years for a decision in which we had no voice, we had no choice.

I see this as a weighing of interests: the interests of the birth parent and the interests of the adoptee. I'm the adoptee. I had no voice in that original decision. I didn't ask for my birth certificate to be sealed. I didn't ask for my entire cultural and biological heritage to be erased, gone; that's it. Where is the balance, gentlemen and ladies?

I thank you for considering this bill, but especially I must thank you, Ms Churley, for bringing forward this bill. For my entire life it has been clear to me that my rights and my needs are not considered and have not been considered. Thank you for making me feel that finally at least we are considered.

The Chair: Thank you very much. That leaves us about three minutes. This time, to be fair, since I'm going to give all the time to one party, I'll go to Ms Churley.

Ms Churley: Thank you very much for your presentation.

I wanted to ask you if you have an opinion on an issue that seems to come to the forefront all the time for those who have concerns about the bill. You referred to it briefly, and that is concern about the few birth mothers

who don't want to be found. Then there is the issue of the adoptive parents, which hasn't come up a lot yet but probably will. I don't know if you want to speak personally about that, but they are sticking points with this bill, from what I've heard from other parties who have some problems. Those are the areas we need to address to convince people that other jurisdictions show there haven't been problems. What about the adoptive parents in this triangle?

Mr Gardiner: First I think I will talk about the birth parents. I like to say "birth parents" because everybody says "birth mother." Birth mothers don't go out and have children by themselves. Contrary to what the laws would have us believe, there is a father. In my case, my father was excluded from this process all the way down the line by the closed system. Social services had his name, they had his address, they had his contact information. At no point did they ever say, "Hey, by the way, you've got a son. What do you want us to do?" They simply excluded him from the process and, because it was closed, there was no way he would ever find out. That has to be changed.

As far as my birth mother goes, I know where she is and I know who she is. I have chosen not to interfere with her life, because my birth mother has made it very clear—not to me—that she does not wish contact, not from me, but from her entire family. After I was born, my birth mother severed all ties with her mother, her sister, with her three brothers and with her father. So I'm in contact with them because they want to have contact with me. She's not in contact with them. Even though I know where she is, I respect that if she doesn't want contact with them, she probably doesn't want contact with me. I don't know, but I'm respecting her rights.

As far as my adoptive parents go, they are both very much in support not necessarily of open records in that you can go see my file or you can go see my file, but that I can see my file, because this is information about me. The birth certificate has my name on it and my parents' names on it. A social worker can see it, a judge can see it, but I can't see it. This is not applicable to any other person in Canada. What did I do? Why do I deserve to be second-class and be deprived and be denied? I did absolutely nothing. I was adopted. That's not something that I had a choice about or was even a party to.

The Chair: Thank you very much for coming before us here today. We appreciate it.

1720

KARIANN FORD

The Chair: Our next presentation will be from Kariann Ford. Good afternoon and welcome to the committee.

Mrs Kariann Ford: Good evening, ladies and gentleman. My name is Kariann Ford and I am an adoptee. I feel it unfortunate that I have to be here today, but during the past three years I have discovered some disturbing anomalies in current practices concerning how

vital medical information is being conveyed to adoptees. The adoption agencies are neglecting to pass on information given by birth mothers who are trying to help their adopted children. Life-saving information is being withheld from these adoptees. This information is being withheld by the very organizations that have been put in place to help and assist.

I would now like to tell you the story of my three children and myself.

In 1996, I was diagnosed with PKD, polycystic kidney disease. This is a life-threatening disease. It had taken doctors 11 years to reach this diagnosis. It is not a common disease. During the years in which I was ill and no one seemed to know why, I had suffered with so much abdominal pain that the doctors had performed six abdominal surgeries on me to try and give me some pain relief. If they had known what was wrong with me, most of these surgeries could have been avoided.

I now deal with this disease on a daily basis. Nothing could have prevented me from getting it, so I deal with it. I have to take strong painkillers every day. I have frequent debilitating kidney infections that necessitate intravenous medications to control them. My future outlook will probably include the need for dialysis and a kidney transplant.

In 1998, all three of my children—Bryce, 16, who is here tonight; Matthew, 11; and Kristy, 9—were diagnosed with PKD, and all three are showing some early signs and symptoms of the disease.

After I was diagnosed with PKD, my doctor mentioned that it would be helpful to know my family history with respect to what type of PKD I suffered from, and therefore to what degree the disease might be expected to affect me. This was when I made my first attempt to obtain information from the children's aid society that arranged my adoption. The paperwork at that time either never arrived at CAS or it got mislaid when it got there. I had been told that it could take up to two years to get any information back, but I never received anything.

By early 1998, my condition had continued to deteriorate. I again tried to get some family information. This time I received a telephone call advising me that they were conducting a search for my birth mother. At this time, I asked for a background history. That August, I received that history. It included the information that my biological grandfather had a congenital kidney disease, but there were no further details. In September, I finally met my birth mother. It was only then that I discovered that my biological family had an extensive history of PKD. A large number of the family had already died due to the PKD and its many related problems, such as aneurysms.

My birth mother then told me that as early as 1983, when I was 16, she had given this information to the CAS to be placed in my file. She wanted me to know about this. She wanted this passed on to me so I could readily have knowledge of the risks and dangers that I might have to face in the years to come. CAS never passed this serious medical data on to me. Even when I

received the background history, it was never revealed just how serious the situation was.

In 1983, my birth mother had also requested information regarding me. She had no response to this request for 18 months, and I was never contacted by the CAS to inform me of her inquiries as to my health, and so was denied the opportunity to exchange critical health information with her. I now know that when the CAS placed me for adoption, they knew that my family was afflicted with congenital kidney problems. My birth mother was at a very high risk during her pregnancy. They never told my adoptive parents, not even when they inquired in the 1970s, when I was having so many medical problems. I also now know that a woman with this terrible hereditary disease can pass it on to all her children.

As I have said, my eldest child, Bryce, is now 16. He was born in 1985. I should have known about PKD two years before his birth. Matthew was born in 1990, and Kristy was born in 1992. It would be four more years before a diagnosis would be made for me. I have three children who now have to live with the very real prospect of dialysis, transplant and disability. The implications of this include limited opportunities of getting life or health insurance and a significant decrease in their quality of life at a relatively early age. They will have to make the heart-wrenching decision of whether or not to have children of their own. Bryce is already working his way through this decision, and he's only 16.

I have debated whether or not I should say anything tonight about a lawsuit I have brought against the CAS of Toronto. I don't think I need to elaborate on it, other than to say it is in progress at this time. My children and I have been so badly hurt by what the CAS has done that I felt this was the only way we could get any justice.

If the Legislature does not make changes to open these files, then many other people may choose to seek justice in the same way I have felt compelled to. Unfortunately, I am not alone. Mine is not an isolated case.

Thank you for allowing me to share my story.

The Chair: Thank you very much. That allows us about two minutes. This time I will give it to the government, if there are any questions.

Mr Spina: I would just like to say thank you, because that's a very different perspective on the issue of disclosure. I appreciate that.

The Chair: Thank you very much for taking the time to come before us today.

BASTARD NATION

The Chair: Our next presentation will be from Bastard Nation. Good afternoon and welcome to the committee.

Ms Natalie Proctor Servant: Good afternoon, members of the committee. My name is Natalie Proctor Servant. I'm an engineer by training, but I'm here today to speak to you as an adoptee rights activist. I myself am

an adoptee. I'm the eastern Canada regional director for Bastard Nation, the adoptee rights organization.

Bastard Nation was formed in 1996 with one simple goal: to restore the right of adult adoptees to have unconditional access to their own birth information. Although this right is protected throughout much of the rest of the world, it is uncommon for adoptees in North America to have it. We are seeking to bring to North America what is already working well in countries like England, Scotland, South Korea, Argentina and Israel. Our members have successfully supported legislative changes in both Oregon and Alabama, where records were unconditionally opened to adult adoptees last year.

Our members' letters and articles have been widely published in newspapers and magazines across the continent, including *Chatelaine*, the *Edmonton Sun*, the *New York Times* and the *Washington Post*. Our organization has been covered in a number of books, newspapers and magazines.

Since we are an adoptee rights group, our recommendations for Bill 77 only pertain to the sections dealing with adoption disclosure for adult adoptees.

I'm not here to make an appeal to your emotions; I'm here to appeal to your sense of justice. I will explain the one change that needs to be made to Bill 77 for it to completely restore the rights of adult adoptees. I will also refute some of the common myths cited against adoption disclosure.

Bill 77 does restore an adult adoptee's right to their own birth information, but not unconditionally. The one serious objection we have to Bill 77 is what so many of you have been asking about tonight: the no-contact notice that can be placed against the adoptee, with a potential fine for violation. This no-contact notice is a *de facto* restraining order that can be imposed on an adoptee for no other reason than the circumstances of their birth. This doesn't restore adoptees' rights; it allows them to be treated as potential stalkers or abusers without any basis at all in reality.

1730

Whether or not an adult adoptee, who is a private citizen, chooses to make contact with another private citizen is up to them. It is then up to the birth family to welcome or refuse that contact. These people are all adults. We are all capable of handling our own affairs. Contact may be welcome or unwelcome, but mere contact should not be made illegal. Laws already exist in Ontario to protect us against abuse, stalking and harassment.

In 1986, as has been mentioned, Dr Ralph Garber, the dean of the University of Toronto's faculty of social work, was commissioned to study this issue. On the issue of vetoes, Dr Garber stated the following: "Adoptees, as any other group, may have among them some few who would have criminal intentions. The law cannot be prescriptive or presumptive about adult adoptees' behaviour without evidence that they do indeed behave this way in significant numbers. No such evidence exists." Dr Garber felt so strongly about this last part that it was underlined: "No such evidence exists."

Bill 77 is prescriptive and presumptive about the potential criminal behaviour of adoptees. In order to restore our rights, the penalty should be removed.

That being said, we propose an alternative to this no-contact notice and fine. We suggest that a contact preference form could replace the notice. Contact preference forms are in use in Oregon and Alabama. They provide the party filling them out with an opportunity to pass on any updated medical and other information as well as to express why they do not wish contact. Samples of these forms are included in the appendices to my written presentation.

Replacing no-contact notices and the penalties with contact preference forms gives adoptees the unconditional right to access their information and also gives birth families the opportunity to express their opinions about contact. What the adoptee does with this information is their own business. The government should not be getting into the business of regulating relationships between law-abiding citizens. As Dr. Garber also pointed out: "The original birth certificate provides one small set of facts that are incontrovertible and that belong to the adult adoptee as a true record of his past. The adoptee may choose to do nothing more with the information or he may wish to seek additional information. The choice should lie with the adult adoptee, not with the government or others as to what he wishes to do with the barest facts of his life."

My next topic is a common myth that comes up when adoption disclosure is being discussed: that the secrecy provisions of the Adoption Act were enacted to protect the birth mother or birth parents. This is not true. The secrecy provisions were added to the Adoption Act in 1927. The 1927 report of the Superintendent of Neglected and Dependent Children of Ontario, who was Mr J.J. Kelso, explains that the records were sealed to protect the adoptees. In his report, Mr Kelso stated the following: "An important feature of the Adoption Act is that proceedings are regarded as private and confidential, as it is the invariable wish of foster parents that the child should not be handicapped in later life by the fact of adoption being broadcasted. No publicity attaches to the application and the act requires that the papers should be filed away in a sealed envelope and only opened for inspection on the order of the judge or the provincial officer."

Mr Kelso's report clearly shows that the records were sealed to prevent adoptees from the then-serious stigma of illegitimacy. His report also shows that any promises social workers might have made to birth parents that the information would never be revealed are false promises. Ever since the records were sealed in 1927, there has always been the possibility that any particular set of adoption records could be opened. These so-called promises of privacy were also worthless, since the social workers could not promise that the law would never change. Slavery is illegal. Women can vote. The idea of public morality and rights changes over time, and laws

change over time. This change must not be held up simply because some people made unreasonable promises. When a human right is recognized, the law can change retroactively.

Other myths and objections raised about adoption disclosure involve worries on behalf of adoptive parents. Adoptive parents do not have authority over their adult children. Any promises of confidentiality that were made to them are as flawed as those made to birth parents. Some adoptive parents may fear a breakdown in the parent-child relationship, but these are misplaced fears and they should not override a person's right to their information. Rights override worries, invalid promises and fears.

In closing, I've shown that adoption records were closed to protect the adoptee, not to protect birth parents or adoptive parents. I've also shown that any promises of perpetual privacy were unwarranted and unreasonable, both because of the Adoption Act itself and because of the changeable nature of law.

We recommend one main alteration to Bill 77: to remove the fine against the adult adoptee, but this could be replaced with a contact preference form. This change would bring Bill 77 in line with the many countries around the world that have successfully given adult adoptees access to their own birth information, some of them for decades. Again, please consider removing the fine against adult adoptees, and thank you for your time.

The Chair: Thank you very much. That leaves us about three minutes per caucus for questions. This time we'll start with Mr Parsons.

Mr Parsons: Thank you for your presentation. I'm also an engineer, and I tend to think anecdotally much better than global picture. Whether that's good or bad, I like to think it's good. Twenty-five years ago, when I got involved with the CAS, most of the children who were going out for adoption went through the CAS and were placed with families because the birth mother, for whatever reason, had given them up.

My recent experience has been that many adoptions, particularly for babies, are private. The children who are available for adoption through the CAS are children in need of protection who have been removed from the birth parents. In far too many cases, birth parents have done absolutely horrible things to the children, things you wouldn't believe if I described them. We've had children as young as five who have had regular sexual intercourse with their father. They've become crown wards, and they're placed for adoption.

The legislation, as proposed, would allow that birth father at some time to get the adoption order and—I'm going to use the words—"hunt down" the adoptive family and the child. Not everybody who has a baby is a parent, and there are some parents whom I just—I would love to go into detail to give you examples of some of the families we have worked with.

What would be your suggestion to prevent that sort of individual, who maybe even have had a court conviction,

from ultimately coming into contact? An individual who would do that will not respect a no-contact order.

Ms Servant: Fair enough. I'd have to repeat again that Bastard Nation is an adoptees' rights organization. We have no position on birth parent access to information. While I personally agree that that's abhorrent, we have no position on this.

Mr Parsons: There are some adoptees out there who would not be well served if their birth parents found them.

Ms Servant: Again, I'm sorry; our organization has no position on this.

Mr Parsons: OK, thank you.

Ms Churley: Of course, I know your position and I appreciate where you're coming from. Fundamentally, I agree with you. From the information we have—we're in a unique position here, as opposed to when this all began in the 1970s. We have other jurisdictions that were brave enough and bold enough to move forward, and we can see now for ourselves how successfully it's working. That's going to make a big difference. We're seeing that most of the legislation previously brought in no-contact and some no-information vetoes.

Interestingly, what you said is that some jurisdictions that are just coming on stream now are even doing what you're suggesting. So in a way we're still catching up in that we're going with no-contact vetoes because that's what we know, that's the experience we know best from other jurisdictions, and it does give those who have concerns around the birth mother and some of these issues some comfort that their concerns are dealt with.

I suppose it's not a specific question, because I understand where you're coming from; you're an adoptees' rights organization. It's more, once again, an explanation of where things are at with this bill.

Ms Servant: Can I just respond to that? I would like to say that in 1893 Ontario took a leap forward by bringing in the Children's Protection Act. We were on the leading edge at the beginning of the last century. Other jurisdictions were coming to Ontario and saying, "Tell us about this law. Explain how it works." Somebody's always got to go first. Why do we have to be the ones who follow? Ontario has led in the past. Ontario can lead again.

1740

It is not just in recent years that countries have opened records unconditionally to adult adoptees. We're talking England in 1975; I was three. By now, this should have trickled down to Ontario. England, Scotland, South Korea, Argentina—all these countries, lots of countries in Europe allow adoptees the unconditional right to access their information. Why can't we follow them, instead of trailing behind provinces that haven't decided to go that far? Oregon and Alabama in the last year have given adult adoptees this right. Two other states already do this. This legislation is coming. Why wait?

The Chair: Thank you very much.

Mr Bert Johnson (Perth-Middlesex): I had a quick question. I just wanted to know how you chose the name

for your group. My contention is—"Nation"; I've no trouble with the other part—I can think of the First Nation and I guess the French are the second and the Aryans and a whole lot—I just wonder if we don't have too many nations.

Ms Servant: Rather than being modelled on Aryan nation, I would say it was more modelled on gay rights activists. Our organization came together on the Internet, where a group of like-minded people agreed that something was wrong, that something had to be done and that they would not accept any one adoptee's being denied information or being refused the ability to contact someone simply because they were an adoptee.

Ms Churley: And for the record, that's why illegitimate children used to be called, and still are, bastards.

Mr Johnson: Oh, I know that. It's the other word I had a problem with.

Mr Spina: You brought an interesting form in your presentation, and help me understand this. I see a difference between contact veto and this consent or contact preference form. Do you?

Ms Servant: Yes. A contact veto has the force of law; a contact preference form is more like a letter letting the other person know what the feelings are. There's no force of law; there's no threat; there's no fine.

Mr Spina: Because I look at this and it seems to fit much more appropriately with the freedom of information and protection of privacy laws as they exist today, because it gives consent in advance rather than an outright opening and then having someone veto it. We appreciate this input.

Ms Servant: I hope it helps.

The Chair: Thank you very much for coming before us this afternoon.

Our final presentation this afternoon will be from Sherry Hastie. Is Miss Hastie with us here today? Going once, going twice.

Ms Churley, I'm sure you are aware there is going to be a vote, so we don't have all the flexibility.

Ms Churley: I understand that. I just wanted to say she is down for 5:50; to be fair, technically she has five minutes. I don't know how to deal with that, given—

The Chair: My response to that, Ms Churley, is people are told to be in the room 20 minutes before their time.

Ms Churley: Oh, are they?

DONNA MARIE MARCHAND

The Chair: We've had a request from a Miss Donna Marie Marchand to speak. I think the request came in just today. I would be inclined to give six minutes, respecting the fact that the vote should take place at 5:50, if the committee approves. Agreed.

Welcome to the committee. We have six minutes for your presentation, Ms Marchand.

Ms Donna Marie Marchand: Thank you very much. I'd like to pass this around. This is a picture of my mother. My mother went to the Catholic children's aid

society for help. She had a job, she had friends to help her find a place to live, she got temporary wardship, and then I disappeared into the private adoption system. I saw her once again. She had two more babies and then committed suicide. The man she married committed suicide.

I have a poem I'm going to read at the end, but one of the things I want to say is that there's a real legal issue here that's not being addressed, this right to privacy versus this right to know. In our legal system, the right to privacy is a negative right. It's a right not to have your life unduly infringed upon by the state without reasonable grounds, so the police can't come to your house without a warrant or without suspicion. That's the right to privacy.

There's no right to privacy between individuals. You have criminal law if there's harassment. What we have when we talk about the right to privacy when we're talking about birth parents is a whole wall of bureaucracy, which is a positive right to privacy that nobody else has. What we should be looking at is the right to privacy. My father knows where he came from; my mother knew where she came from. He has more than privacy; he has secrecy. I have no privacy: 50 people have read my records, and I cannot see them. I'm a 46-year-old lawyer. I was on the waiting list for 17 years.

I asked when I was four years old where I came from, who my real parents were. I was tied to a table, given an enema and told if I was ever to ask again, my adoptive father would kill me. Unbeknownst to me, my adoptive father knew my birth mother. It was supposed to be open. He worked on the railroad. He had no idea what my adoptive mother and grandmother were doing to me.

I saw my adoptive mother go crazy. I found out last February that she was adopted and that made her crazy. She saw the end.

I'm going to end with my poem, *The Handmaid's Baby*:

My name is ... "name withheld"
I am 14 months old and I will not grow up
I have no roots
I am dry
Brittle, I crack.

I am a balloon
I stay full without being closed
There is no in or out
There are secrets in my soul
Someone paint a face on me!

I am a razor
I cannot touch myself.

I have been left on mountaintops
I have been left in baskets
I have been left in boxes
I have been left.

Alone, I travel the roads of ancestors I invent and criticize

I learn my part as if my life depends on it

The details and wants of others: the blood of my existence

“I” is for “iodine”: their wounds not mine.

Seed

Sorrow

I seethe myself with need.

I am the poster child for reproductive choice

Mr Justice Frankenstein’s creation

Satan’s spawn

My mother’s not baby

Someone’s dream child

Who am I?

I am a warrior without a heart of my own

I am the unborn

Life is a ghost travelling me.

I speak to you at an emotional level. It was not until I saw a picture of my mother that I realized I was actually born. The whole life experience until I was 42 years old was a bad dream.

For 22 years I went to 17 different therapists. I told them, “I’m adopted. I’m really alone. I’m terrified,” and they said, “Tell me about your real family.” There was no acknowledgement that having absolutely no blood contact, no mirroring, no reflection, would have a psychological and a spiritual effect on a child.

I currently have a medical illness. My father’s on my birth certificate. He first denied knowing my mother. He now admits knowing my mother. The last thing I’m going to do is to do anything to scare that man away. At this point in my life, I have the support systems in place.

We don’t need any more laws. I am a constitutional lawyer. Something was done to me that I did not have the capacity to consent to. The result was unknown. That is a human experiment. It is against the law. Thank you very much.

The Chair: Thank you, Ms Marchand. I’m glad we had an opportunity to fit you into the agenda here this afternoon.

I’ll make one last appeal. Has Ms Sherry Hastie joined us? I don’t think I saw anyone come into the room. That being the case, the committee stands recessed until 7 o’clock.

The committee recessed from 1750 to 1906.

NICKI WEISS

The Chair: The next presentation will be from Nicki Weiss. Welcome to the committee.

Ms Nicki Weiss: Thank you very much. I gave you all copies of my presentation and I’m just going to read it.

As an adoptive parent, I am in full support of Bill 77. In fact, I think this bill is long overdue. I have two sons, both adopted at birth. When my eldest son, Lee, at four years old asked me if his birth mother was dead, I replied, “No”. “Well, then,” he said, “why can’t see her?” I had no good answer. I wrote letters to his birth mother, Anita, via our lawyer, asking her if she would consider making our relationship more open. When Lee was six

years old, she was ready. I am very grateful for her courage.

When Lee was seven years old, Anita and her husband were pulling out of our driveway after a visit. Lee said, “Wait a minute. I have to get my jacket.” “Where are you going?” I asked. “I’m going with her. She’s my real mother.” Open adoption is not without some confusion and issues. I explained to him that adoption is forever, that this is what Anita chose as best for him and that we are the family he lives with. I explained that while he doesn’t live with his grandparents or aunts and uncles either, they are a part of our family and they love him. We have that same relationship with Anita. Lee was able to accept this and the issue was resolved.

This morning I asked Lee, now age 11, what he would like you, the attendees of this hearing, to know. He replied with no hesitation, “I want them to know how important it is for me to have both my families. I love you both. If I didn’t know my birth mother, I would think about her all the time. I would worry. I think I might even be frightened. I might wonder about her obsessively, but I hardly ever think about her because I don’t have to. I’m glad I know whom I look like. Her parents always tell me every time I see them. I want you to tell the committee that having a relationship with my birth family is not confusing. They are my relatives and I need them in my life for me to be happy. If I wasn’t able to know them, I might become crazy.” There you have it.

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

Let me back up and tell you how our family got to this place. Before my husband and I adopted, we thought long and hard about the kind of relationship we wanted with the birth family and about the kind of information I thought our kids would want. Common sense told me that information, good, bad or neutral, was preferable to no information and that identifying information, preferably with some sort of communication with the birth family, would make the most sense for us. When I heard about the incredible frustration experienced by adoptees and birth parents, the disrespect shown toward those searching for their original families and the long wait time in trying to get some information through the adoption registry, I was appalled. It made me sad to think that our government might deny or make it difficult for my children to obtain information about themselves that is rightfully theirs. People can deal with what they know, no matter how painful the information. They cannot deal with what they don’t know. So my husband and I decided to go the private adoption route in the hope of circumventing the hassles of the adoption registry. Obviously we were successful.

Adoption is a normal and common way to make a family. I am unwilling to buy into the barriers, like the barriers to information or the barriers to access, people put in our way for our own good. These barriers promote adoption as abnormal, as somehow shameful. This in no way describes my outlook. I see adoptive parents and birth parents as family. I do not feel threatened by my children's birth families. I have enormous respect for the difficult and courageous decisions they made. I see my children's birth parents as our in-laws. As in any family, adoptive or not, you don't choose your in-laws, you may or may not like them and you both love the same child. Some families get along with their in-laws; some do not. In the end it really doesn't matter. What does matter is that the children have unimpeded access to information about both families. It does not make sense, because one family in the triad might be nervous about the other's existence, to deny individuals their basic need to know about their origins and the freedom to choose whether or not they want to become involved with each other.

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

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

The Chair: Thank you very much. That gives us, recognizing we have two parties represented, two minutes each. We'll start with you, Ms Churley.

Ms Churley: Thank you for your presentation. It's nice to hear from an adoptive mom and to have your perspective. Your son's comments are really moving, and I'm glad we had that before us.

When I talked to my son's parents, our first conversation over the telephone was very tearful, and he said something to me I'll never forget. They have three children adopted and they were all told. We were all crying, and he said to me, "You know, we always considered you part of the family, and without you we wouldn't have had Billy. Thank you." We have a great relationship, so it's all good.

Ms Weiss: I'm glad to hear that.

Ms Churley: I wanted to ask you about that, though. This legislation is more about the past as opposed to the present and the future. You had those options and more and more adoptions are open. Some are arguing that it shouldn't be retroactive. To my view, then, the intent of the bill is lost if it's trying to correct an old wrong.

Ms Weiss: What? That the bill should start when?

Ms Churley: That it should only act for present adoptions and not be retroactive to deal with all adop-

tions that took place in the days of secrecy, before these open adoptions were an option.

Ms Weiss: Right. What do I think about that?

Ms Churley: Yes.

Ms Weiss: I think it's ridiculous. Why would you deny people access to information, especially when they want it? It makes no sense to me to make that not retroactive. In particular, I think that people who haven't had the opportunity to have open adoptions need the information even more, because they've had a black hole for all these years. That really makes no sense to me.

Mr Wayne Wettlaufer (Kitchener Centre): Welcome, Mrs Weiss. There are some people here of my generation. We got married in the 1950s and 1960s, and there was at that time a habit of spouses saying to one another, "Are you a virgin?" Whether or not you were, the answer was yes.

Mr Ted Chudleigh (Halton): Especially the guy.

Mr Wettlaufer: You can tell me if I'm exaggerating, and that's OK. I can see instances where the male spouse would say, "I don't want to know if I've got any kids running around out there," and the female doesn't want to acknowledge it to him for fear of the damage that can be done to their relationship. Comment?

Ms Weiss: I think lying and lack of information are more damaging than the truth. It's like saying, if your marriage is shaky, "Let's ignore our issues. Hopefully, they'll go away and our marriage will get better." From my experience, that doesn't happen. I could understand where people would be reluctant to open up the skeletons of the past, but I'm sure the relationship would be improved by knowing the truth.

Mr Wettlaufer: What about those instances like we saw recently in Toronto where the father, who has long remained hidden, suddenly leaves himself wide open to a lawsuit?

Ms Weiss: I'm not an expert in these matters and I really am not an informed opinion about the negative aspects of information. My experience and the experience of everybody I have talked to who's involved in adoption—and it's a lot of people—is that birth parents, adoptive parents and adoptees all come down on the side of wanting to know, and that that's a good thing. Even if the information is painful, even if it opens up a can of worms, my experience and everybody's around me would corroborate that the information is positive.

Mr Wettlaufer: Thank you.

The Chair: Thank you very much, Ms Weiss, for coming before us here today.

DIANNE MATHES

The Chair: Our next presenter will be Dianne Mathes. Good evening and welcome to the committee.

Ms Dianne Mathes: I did bring with me a prepared presentation which I will leave for the committee members, although I'm going to take the liberty, having heard some of the concerns of the committee, to vary a little bit

from the original presentation I wrote. I'll leave it with you at the end of my time.

My name is Dianne Mathes. I'm a reunited adoptee and I'm a therapist in private practice in Toronto which specializes in work in the area of adoption. I've worked in adoption now for about 12 years and have made the decision to become involved in work in adoption both as a result of my own personal reunion and a recognition of some of the issues that many members of the triad were dealing with.

To briefly tell you a little bit about my history, I personally met and reunited with my birth mother 15 years ago and my birth father's family seven years ago. I was raised here in Toronto in a loving and supportive adopted family. My reasons for searching for my birth family had nothing to do with an unhappy adoptive home. They were for medical information, because I had undergone several surgeries which later, with information from my birth father's family, I discovered were both not necessary, and with accurate and clear medical information I was able to resolve the medical problems and return to full health fairly quickly.

While the excellent part of this story was the opportunity to reconnect with my birth family and to learn about who I was in many ways that I had never understood previously, it was a difficult and painful journey to have six years of not having medical information and enduring both poor health and surgeries that were not necessary.

As a professional therapist with now 11 years of experience in working in this field, I came to the work as a trauma therapist and had been doing that work for 10 years previously. It was at the point I began to become professionally interested in this work that I began to understand the ways and the seriousness of the impacts of closed records and the closed adoption system.

I receive referrals from many people across the greater Metropolitan Toronto area as well as from Ontario, across Canada and throughout the United States. I work with all parties in adoption. I'm often given referrals by the adoption disclosure registry for individuals who have been denied contact, who are reluctant or scared to provide information or have contact and for families where the placements have not been voluntary and children have been taken because of abuse, incest or neglect.

I work with many different families and I work with people who come voluntarily into reunion. Over the course of the past 12 years I have worked with over 300 individuals whose lives have been touched by adoption. Not all of those stories have been easy. What is remarkable in all situations is that even people who have had difficult reunions, who have been denied contact, who have had deceased parents before they were able to find them, are glad that they pursued this journey, glad because what we need to recognize in adoption is that the need to know, the need to understand, the need to know what happened to your child or who you are is fundamental to the identity of who we are as people in the world.

One of your committee members, Mr Parsons, mentioned he was most concerned about birth parents returning at some point to connect with children who might have been sexually abused in families. As a therapist, I may be one of few individuals presenting before the committee who works routinely with those people. For obvious reasons, adoptive parents, birth parents and sometimes adopted parents are very fearful in those situations. There are several things, though, that I'd like you to recognize. One is that in situations where children have not been voluntarily placed for adoption, their need to understand the circumstances of their original families to resolve that and to ultimately make peace with that is as large and important as if they had been voluntarily placed.

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The other interesting thing is that working with a survivor of sexual abuse—and I did that for 10 years before I did adoption work—is far easier, although horrific, than working with someone who is suffering from the impacts of adoption. In adoption therapy, when someone comes to me where there has been no information or connection for them, the work is incredibly difficult. I'm asked as a therapist to help someone resolve the loss of a significant connection when there is little recognition of the impacts of that loss and no information about who that person was, be it the child or the mother. I'm asked as a therapist to process the loss and grief this person feels without any concrete way to do this and with often inaccessible grief that has existed for decades and which has frozen as a result.

People who are adopted are asked to develop identities without fundamental mirroring experiences which build the foundation for self-esteem and a healthy concept of self. It's an almost impossible task to try and explain to people who are not adopted how incredibly difficult that is, for the whole concept of being able to look at people in your family and have a sense of who you are is so completely effortless and subtle.

I am asked as a therapist to deal with the ongoing fears of rejection, because there is no information, no way to understand and no way to process what the reasons were for those initial losses. I'm asked to help people resolve fantasies and stories that they have created to explain things that they simply did not have information to work with, and yet they have no real information to replace those facts or to develop anything else with. So as I said, horrific as sexual abuse trauma therapy work is, it's far easier to do than to work with people who are dealing without any concrete information or person and dealing with adoption. What is fundamentally missing is that you simply cannot make sense of what you do not know, and the recognition that without core kinship information, there is no way to process either your experience or who you are now in the world.

In the situations that I have encountered where there was reluctance, it was a reluctance to meet, not to share information. Those reluctances were always able to be resolved through respect and co-operation, and the

decision has always been respected by both parties. I have never encountered in 11 years of this work, even in working with families where placements were not voluntary, a family or situation where people broke that cooperation and respect. Initial hesitancy usually came from fear and the kinds of beliefs that arise from the myths, misunderstandings and one-dimensional approaches that adoption reunion and adoption practices have fostered over the years.

Fear is the demon to us in adoption, not openness. Because adoption practice has not historically embraced the importance of birth families, kinship history and connections, birth families have been shut out and fear being intrusive or not important. Adoptive families that do fear intrusion or loss of connectedness have simply not been given opportunities or the kind of information that allow them to understand the importance of kinship connection and information for the child they adopted. In all situations where I have been able to talk with people and overcome some of these myths and lack of understanding, connection has occurred and all people have benefited.

Adoption is about kids and families, and children need to know where they come from, how they became and a way to make sense of their beginnings. They then need to be parented in loving and supportive ways that allow them to grow into all of who they are, because they know they can become all of who they are.

The Chair: You timed it perfectly. Thank you very much for coming before us here this evening.

PARENT FINDERS OF CANADA

The Chair: We've had a request to allow someone to read into the record a submission we have from Parent Finders of Canada out of Vancouver. Unless the committee sees any problem with that, I will indulge it. Mrs Patricia McCarron.

Mrs Patricia McCarron: Hello again.

The Chair: Hello. Yes, you're back to see us a second time.

Mrs McCarron: I'm back again. I've got my other hat on.

The Chair: I will allow you to read this one into the record, then.

Mrs McCarron: Actually, you don't even need to keep this, because this is just a quick summary that got e-mailed to Mr Arnott this evening. Thank you very much, Mr Arnott, for helping us out. There will be a full written one to follow within a day or two.

I am speaking on behalf of Mrs Joan Vanstone. She is the national director and founding member of Parent Finders of Canada. She began this as an adoptee 26 years ago in Vancouver, BC. Since then, over 30 chapters have sprung up across the country, and she has a database of about 58,000 records and birth entries. So she's got a mini ADR going on her own.

The main points I want to go over with you this evening start basically with Parent Finders National

being fully supportive of adult adoptees and birth parents being able to access the identifying information. They do have a right to privacy; however, their privacy can be protected with a contact veto.

Parent Finders National has definitely understood and heard all the arguments over the years about the notion of privacy expectations, but, again, it is a perception that is false. Prior adoption acts did not give birth parents any reasonable expectation of anonymity from their child, much less a vested right to such anonymity, nor did birth parents sign any contract during the adoption process which guaranteed them such a right. For those who believe that such a right exists, we challenge you to produce the statute in any prior adoption act in this country or any contract signed by birth parents that granted this alleged right to anonymity.

I just want to add as well along these lines that you've heard two stories that the adoptees' initial search was for medical reasons, and one for very tragic reasons. Let me give you the other side of the coin, and that is when the adoptee does not know they are adopted, when they have been told they are the birth child. What are they giving out? A false medical history of their adoptive family. We have as many stories on that side when they do finally find out. Usually at the death of their adoptive parents, they will find adoption records.

One issue that may be raised at some point here is having something on the birth certificate that says "amended." This is what they do in England. So my birth record, my birth certificate, would just say "amended," and when I went to get it on my own at age 18 or whatever, I would then say, "What is this?" It doesn't have to say "adopted" or "illegitimate," or whatever, but it's something to think about. There are a lot of adoptees who don't know they are adopted and they are going on false medical histories.

In some jurisdictions where new adoption acts have been passed which granted adopted persons an unqualified right to retroactively access their birth certificate, the matter has already gone to the courts. Where birth parents have also gone to court to assert their alleged right to privacy, their claim has been rejected by the courts on every occasion.

The next item is the right to access personal records as a human rights issue and not as an adoption issue. I've got three arguments for this. An adopted person's equal right to access their personal information is guaranteed by, first, the Canadian Charter of Rights and Freedoms, sections 7 and 15(1); also, the Ontario Human Rights Code, which prohibits discrimination in public service based on family status; finally, the United Nations Convention on the Rights of the Child, which was endorsed by Ontario in 1991. This international human rights covenant guarantees every child, without discrimination of any kind, including birth or other status, their right to an identity. That is in the United Nations Convention on the Rights of the Child. Although we have endorsed it, we haven't ratified it.

On the issue of an adopted person's right to equality, we would like to draw this committee's attention to the

case of Shirley McKenna. That case started out as a complaint of discrimination against adopted persons and was filed under the Canadian Human Rights Act. The case eventually ended up in the federal Court of Appeal. On the issue of discrimination, the justices were unanimous: "By expressly excluding adopted children from accessing the same rights and privileges as non-adopted children, that section echoes the old laws and the old cases." And this was in bold: "The law across Canada, however, now mandates that adopted children be treated identically to non-adopted."

In conclusion, birth parents have a right to privacy but not to anonymity or confidentiality forever. This right to privacy can be fully protected with a contact veto. Adopted persons have an unqualified right to access their original birth certificate, and this equality right is protected by national, provincial and international human rights legislation.

If you have any questions, I'll try to answer them, but I will be answering on behalf of somebody else.

The Chair: I think in that regard it might not be as appropriate. But we did want to give you the opportunity to put the points on the record, and we look forward to the more complete submission coming to us.

Ms McCarron: Thank you, and Mrs Vanstone thanks you.

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FAMILIES IN ADOPTION

The Chair: That takes us to our next presentation from Families in Adoption. Good evening and welcome to the committee.

Ms Patricia Fenton: Thank you for this opportunity. I will introduce myself. My name is Patricia Fenton. I am the coordinator of Families in Adoption, which is a support group for adoptive and pre-adoptive families here in the Toronto area. I am also a mother of two, one by birth and one by adoption. Our adoption was a private adoption here in Ontario and our daughter whom we adopted is now 18 years old. I am also an approved adoption practitioner who works with adoptive applicants, with families who have adopted as well as birth parents who are considering adoption for their child. Let me tell you about Families in Adoption briefly and then I'll get on to our point.

We are a support group for adoptive and pre-adoptive families that was founded in 1984. Our membership is made up of families, some of whom have adopted locally through private adoption, some through children's aid and some through international adoption. Some are living in open adoption with face-to-face contact with the birth parents of their children, others have an arrangement for the exchange of pictures and letters on a regular basis, and still others have traditional closed adoptions. Our children range in age from infancy to age 22.

We meet every other month to share information, to learn about adoption and to have social events for ourselves as parents and for our children. We're a loosely

structured organization and we now have approximately 30 active families, although over the years since 1984 we've had 225 families that have come and gone at various points during our time. At the most recent meeting, we discussed the features of Bill 77 and wish to provide our support for the bill. We believe that Bill 77 begins to bring legislation in line with today's view and practices in adoption.

As adoptive parents, we often, almost daily, can see how important it is to our children to know about their backgrounds, about who they are, including who their birth parents are. Knowing one's identity is part of feeling human, feeling whole, being normal. We recognize that those of us who were born and raised in our birth families take a lot for granted, and we feel that the current legislation governing adoption in Ontario has the effect of keeping adoptees as children and as second-class citizens.

Bill 77, on the other hand, gives the right to information for the parties involved, allows for access to information and gives people a choice about whether they have face-to-face contact. We support the fact that parties exercising a contact notice under this bill also be asked to provide updated information and the reasons for not wanting contact. We are very respectful and concerned about birth parents and feel that they should be given rights to information. So we support the access to information that is afforded to birth parents under this bill; namely, the amended birth certificate and the adoption order, as we understand it. We have to keep reminding ourselves that we're talking about adults under this bill.

I'd like to make just a few comments as an adoption practitioner and then also some personal comments as an adoptive parent.

We seem to have a huge dichotomy in the adoption system in Ontario. Today's practice in adoption encourages honesty, openness and sharing of information. Some adoptions are fully identified, with adoptive parents and birth parents meeting and sometimes contracting for ongoing contact after placement. There are trends happening also in the public adoption system. Ontario's adoption professionals just recently had a training session on open adoption.

We encourage adoptive families to begin telling the adoption story to their child at an early age and we encourage an open and honest approach to adoption as a way of normalizing a child's adoption status. All this, however, is against a backdrop of a legislative framework that keeps records sealed, supports a secretive approach and keeps parents and children from knowing about each other.

I'm sure you've heard already, and I will urge you to look at other Canadian jurisdictions, for example, British Columbia, where records have been opened. I understand there have been no major, world-shattering events that have occurred because those records have been opened.

If I may use my daughter as an example of an adoptee's curiosity and need to know about their roots,

please allow me. In keeping with the advice that we received as adoptive parents, we started by telling our daughter as a toddler about her adoption. This was actually one of her favourite bedtime stories as a very young child. By age four, and this was to my surprise, she was already asking very simple questions, poignant questions, about her birth mother. "What is her name? What does she look like? Where does she live? Why don't you know those things?" I had none of the answers. Our adoption order has "Baby L" with a number.

She continued to wonder and want to know more about her birth mother. As our daughter moved into middle childhood, at ages seven and eight, she clearly, openly and at times very intensely grieved the loss of her birth mother. As time went along, her grief became mixed with worry about her birth mother. She knew that she would have to wait until she was 18 in order to apply to the registry. Do you remember how slowly time passed when you were a child? For her, it did. She worried that by the time she got to be 18, her mother might have died and it would be too late for her. It was very difficult for me as a parent to see my child at such a young age of seven and eight worrying about such big life questions and experiencing such grief and worry.

We asked the professionals involved with our adoption whether they could help in trying to answer some of these questions. One said an outright no and others were sympathetic but felt unable to help under our current legislation. The doctor, however, was ready to help but he had retired and no longer had access to his files.

To make a long story short, lacking any support, we eventually did our own search and found our daughter's birth mother. We did our homework, and we did not enter into this journey lightly.

Our daughter's birth mother was very receptive and delighted. Our daughter was overjoyed and pleased to know that she had a half-brother, a birth mother and her husband, all of whom are very fond of her. She can know first-hand that her birth mother did not reject her but continues to love her and care about her, even though she could not care for her.

Our daughter was 11 when we made contact and 12 when we actually met her birth mother, her husband and infant son. We continue to have a relationship today, now six years later. As one of our previous speakers said tonight, it's like having another set of in-laws, special people who care about our daughter. Having a reunion, contrary to popular belief, helped our daughter and us, as her adoptive parents, to feel and be closer as a family.

The part that's missing in this bill for me is that there is no provision for adoptive parents like myself with a minor child who wants to apply for information. I would suggest that consideration be given to provisions for this if it is focused, first and foremost, on meeting the child's needs.

Again, as a practitioner, may I underscore that it seems that our adoption system is made up of two different worlds. In modern adoption practice we promote openness and sharing information for the benefit of the

children involved. At the same time, however, we have legislation which is based on an archaic, secretive, paternalistic way of approaching adoption and keeps adults from enjoying the openness and healthy approach to adoption that today's system is trying to engender.

I would recommend that as part of the lead-up and implementation of this bill, there should be support for a public education campaign on adoption to dispel many of the myths and misunderstandings about adoption.

The passage of this bill is long overdue. I urge you to bring adoption in Ontario into the 21st century by ensuring that Bill 77 is passed.

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The Chair: That leaves us about 10 minutes for questions. We'll divide it so each caucus can have up to five minutes. We'll start with the government, Mr Miller first and then Mr Wettlaufer.

Mr Miller: Thank you very much for coming in today. My own personal experience with adoption is that my sister was adopted and actually had some similar experiences to what you were describing in that in her mid-20s she had an interest in knowing who her birth mother was. I don't know by what means she was able to track that down, but I know that her adoptive mother, my mother, assisted her in that process. They eventually did reunite and it was a positive experience. She discovered she had a half-brother as well, so that's the other similarity. It's been basically a positive experience. Actually she has, in the last couple of years, adopted a son herself. That's my personal experience.

In the not voluntary cases, the sexual abuse cases, how do you see protection for those kids?

Ms Fenton: I recognize that is a difficult question that we've wrestled with in looking at how to provide the kinds of information that people need and also include the protection, if you will. We need to realize that we're usually talking about a fair lapse of time, I would think, from the time of placement until such time as the application for information takes place. Perhaps things have changed. One needs to look at that.

If there is some reason to believe that this birth parent—I presume the birth mother or father—is still going to be a danger to the child, then I think we need to have some way of noting that either on the file or some way that we can alert people to that. I don't have an exact technique as to how that could be done, but in the same way that we have access to information, or people who are examining the files, could that not be something that could be noted in some way so it could be identified?

Mr Miller: How do you feel about the no-contact provision in this bill? Do you think it's satisfactory or a good way of going about it? We had someone else bring a submission for the contact preference form that's completely optional. I guess in the bill there is a no-contact provision and there is a penalty if you violate it.

Ms Fenton: I think it is good to distinguish between access to information and the right to be contacted and to protect privacy. I don't know that I agree with someone being penalized and thought to be a criminal because

they want to know about their family. That somehow grates against my sense of how relationships should happen and whether we should be fining someone for wanting to know more about their parents and trying to make contact to see who they are. I'm not fully supportive of that contact notice, but I think it is important to have the protection for those who really want to have that choice.

Mr Wettlaufer: Ms Fenton, many of us have experience in this on an individual basis. In my own case, it's a young man who would be 17 or 18 years old now. I recall that when he was very young he wanted to know where he came from, and his mother, who was a totally unsuitable candidate to be an adoptive mother, I will say, indicated to him that he came from a mother who didn't want him. I am sure that was reinforced several times as he was growing up. This young man could have become very rebellious and could even have taken to a life of crime except that he got some support in other areas of his life. He had some major health problems, and had a bill like Ms Churley's been in place at the time, there is no doubt in my mind that we would have known that this young man came from a family where these health problems were congenital.

Having said that, when we are talking about private adoptions—and I've got some concerns here; I know I'm going beyond the scope of your bill, Ms Churley, so please bear with me—how do we ensure that parents are suitable adoptive parents? I should have asked this earlier, but I really would like an answer to that, if I could.

Ms Fenton: There may not be time for me to tell you all that's involved in that process, but although private adoption might be seen as a behind-the-scenes, informal arrangement, it's anything but. It's very regulated and there are strict guidelines that we follow that have been set by the Ministry of Community and Social Services. Also, although it's not mandatory, certainly many of us who are now practising in adoption are requiring that prospective adoptive parents undergo some education programs in preparation. There are police clearances, there are medicals, there are letters of reference, there are many supporting documents that are required for the home study process by which adoptive parents are screened. I can show you the big binder that is available for private adoption practitioners and perhaps allay some of your fear about what the current practice is. I can't speak for practices in the past in terms of what may or may not have happened around screening, but I can certainly say with confidence that today's approach has become far more thorough. There are a lot of things that we go through in discussing and preparing for adoption with applicants.

Mr Wettlaufer: More thorough for adoptive parents than it is for natural parents.

Ms Fenton: Absolutely. You've got that right.

Ms Churley: Thank you for your presentation. You've brought up a number of important issues. That question I think is a good question that hadn't been asked

about adoptive parents. Certainly we know from Donna Marchand's experience—and I have a friend whose daughter was adopted into a situation that was terrible—alcoholic parents—and for whatever reason, in that time frame, it wasn't dealt with. That child was on the street at 12. It's a long, involved story. Eventually her birth mother, my friend, located her, only to find out that the thing that was promised for the good of the child, that she was going to be sent to a good adoptive home—in most cases, of course, that is correct, because there is screening, but there have been some terrible situations, which goes to say that none of us is perfect. You have birth mothers who aren't perfect, you have adult adoptees and kids who aren't perfect and sometimes you have adoptive parents who aren't perfect. That's something we have to accept. It's life, and we have to deal with it, just as we do with our regular families.

The second thing I wanted to say is that another young woman who was adopted—and this is also typical—was not told that she was adopted. But, of course, as many children do, they find out, especially in smaller towns, because kids say, "You're adopted." She's known for a number of years, and I've known she's known, but finally for the first time she told me, "Don't tell anybody, but I know I'm adopted." It happened that she lost two babies and her adoptive parents still wouldn't tell her. Subsequently, on her own, she found her birth mother. What she said to me was this: "I love my adoptive parents so much, nothing will change that, and I so much want to tell them about this. It's such a big thing in my life and I can't share it with them."

It just struck me, when people were talking about the lies, the layers of difficulties it causes in families, that sometimes there are those layers and not everybody is aware of it, but it does cause strain and people aren't even aware that the strain is there. So your story about your daughter—and I commend you for not turning away from it but understanding that she needed your support and help. I think that as adoptive parents find out, in fact, it enhances the relationship and strengthens it. That's a very important message to give out to those adoptive parents who are concerned that they're going to lose the love of a child they bonded with at a very young age.

Ms Fenton: You're right. One of the big fears of adoptive parents is that they are going to lose their children, but certainly that was far from our experience at 11 and 12.

Ms Churley: Mine too.

Ms Fenton: With respect to home studies and screening, I think it's important to realize that in the course of a home study—certainly in my practice, I do at least six sessions with families and rely on the reference letters and so on—it's really still a snapshot in time. People change. Things may not turn out as planned in the future, but we go by the best information we can gather at the time and we do the best we can. We do a lot around educating, the importance around being open and honest, talking about adoption and those things.

The Chair: Thank you very much for coming before us this evening. It was important to the members of the

committee that we have a somewhat unusual evening sitting in order to accommodate those who found it difficult to appear before us before 6 o'clock. We're glad that everyone who submitted their name before the deadline, and a couple afterwards, have in fact been accommodated.

With that, the committee stands adjourned—

Ms Churley: I want to ingratiate myself with the committee here and thank you very much for your support. This is unusual for a committee to sit at night when the House is sitting and we needed a unanimous

motion to do that. I certainly want to thank all the members here for allowing the people who couldn't be here in the day this opportunity.

The Chair: Gee, Marilyn, if you want to say things like that, you can interrupt me all the time.

Mr Wettlaufer: Ms Churley, does that extend to the Liberals who aren't here?

The Chair: Let's not blow it.

With that, the committee stands adjourned until 3:30 on Wednesday.

The committee adjourned at 1952.

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