

ARENT FINDERS INCORPORATED

28 York Valley Crescent, Willowdale, Ontario M2P 1A7 Canada (416) 483-1358

BRIEF TO THE PROPOSED RESOLUTION RESPECTING THE
CONSTITUTION OF CANADA - 1980

FOR PRESENTATION TO
THE SPECIAL JOINT COMMITTEE OF THE SENATE
AND THE HOUSE OF COMMONS
BY
PARENT FINDERS INCORPORATED

REQUESTING AN ADDITION TO THE WORDING UNDER
SCHEDULE B OF THE PROPOSALS, PAGE 20, WITHIN
PART I, SECTION 15, RELATING TO NON-DISCRIMINATION
RIGHTS

SUBMITTED BY:

Mary Jane Brinkos,
President
(1-416) 485-3644

W. Edward Mercer,
Vice-President
(1-416) 444-4550

Elizabeth Scott,
Secretary
(1-416) 465-4568

Carole McLatchie,
Treasurer
(1-416) 598-3788

Mr. Chairman and Honourable Members of the Special Joint Committee of the Senate and of the House of Commons on the Constitution of Canada:

We represent Parent Finders which is a volunteer, non-profit organization with membership consisting of Adult Adoptees, Fostered Adults, Birth Families, Adoptive Parents and Concerned Individuals.

On August 18th, 1980, we addressed to Prime Minister Trudeau, with copies to all provincial First Ministers, a letter (English and French copies of which are attached) stating our concerns about adoptees' human rights in Canada. In the course of our presentation, we will provide specific examples of discrimination in existing legislation, and a supportive study by the eminent Arthur D. Sorosky, M.D., Department of Psychiatry, University of California.

The published objectives of Parent Finders are:

1. To seek changes in legislation which presently denies Adult Adoptees access to all records pertaining to their adoption.
2. To promote a feeling of openness and understanding in the minds of the public concerning the concept of adoption and its effects on all members of the adoption triangle.
3. To maintain an active provincial and national cross-reference registry system of Adoptees and Birth Relatives.

There are presently 22 chapters of Parent Finders within nine of the ten provinces of Canada. (Prince Edward Island will shortly be making this ten.) Each chapter maintains records of its own and the central registry for all of Canada is located in Vancouver, British Columbia.

In presenting this brief, we, as members of the Parent Finders organization, earnestly appeal to the honourable members of this committee for their support in recommending the insertion into the proposed resolution of the words "blood relationship", after the word "race", as it appears under Schedule B, Page 20, within Part I, Section 15, Subsection (1) relating to Non-discrimination Rights so that the wording shall read as follows:

15. (1) Everyone has the right to equality before the law and to the equal protection of the law without discrimination because of race, blood relationship, national or ethnic origin, colour, religion, age or sex.

Fr. Nous suggérons qu'on insère dans l'article français correspondant, Page 21, après le mot "race", les mots "la proximité de sang", pour lire ainsi:

15. (1) Tous sont égaux devant la loi et ont droit à la même protection de la loi, indépendamment de toute distinction fondée sur la race, la proximité de sang, l'origine nationale ou ethnique, la couleur, la religion, l'âge ou le sexe.

We hope that both Houses of the Canadian Parliament will give serious regard to our brief so that the necessary legislative measures can be taken to provide legal status to the "blood relationship" where there is now no recourse under law.

Three elements of the proposed constitutional program are vital to adoptees.

- (1) With the passage of Section 2, (C) Page 14, - Freedom of peaceful assembly and association, - adoptees should once again be able to associate with members of their birth families and, in the process, regain their full rights of citizenship.

- (2) Under Legal Rights, Section 7, Page 16, it is enunciated that:
Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

For many adoptees this will bring new prospects for health and personal security.

Modern research techniques have taken medical science forward with great strides in recent years and much of the progress has been in the area of blood related diseases, among these Huntington's disease (as per attached), Sickle Cell Anemia and Tay-Sach. Common to each are the factors of serious disability for the individual victim and the far reaching social and blood related implications. In the case of an adoptee with a latent or recessive blood disease that can go undetected for a generation, it is important for the medical profession and the involved families to know the birth family's medical history, to establish the link with an originating parent and to plot the possible ramifications. Hence, the spelling out of the "blood relationship" becomes so very important.

- (3) If, as is stated in Section 12, Page 18, everyone has the right not to be subjected to any cruel or unusual treatment or punishment, we should take the above one step further and guarantee that the health, life and general well-being of an adoptee shall not be placed in jeopardy for lack of a birth registration or court document such as pertains to blood relationship.

Every adoptee contemplating marriage has to be concerned about the possible consanguinity of the intended spouse. With birth records not only closed but, in many cases, incomplete or non-existent, this problem looms large for such persons.

As well as in the physical health area, we, in Parent Finders, are deeply concerned about and morally committed to the

resolution of needless mental and emotional cruelty as it applies within the adoption triangle.

Firstly, it must be clearly acknowledged that trauma, depression and alienation have beset members of birth families.

Secondly, adoptive families have experienced adoptee resentment and revolt when a lack of frankness and honesty have been perceived by the adoptee.

Arthur Sorosky, M.D., on Page 903 of the attached report entitled "The Effects of the Sealed Record in Adoption", has concluded from his research that:

"Professionals in the mental health field need to realize that past adoption practices have led to numerous psychological problems for adoptees, birth parents and adoptive parents"

and

"Above all, it is essential for us to realize that openness and honesty must replace the secrecy and anonymity that have prevailed in adoption practices".

In our letter to Prime Minister Trudeau on August 18th, 1980, copies of which are attached, Parent Finders Incorporated stressed that our legislators must ensure that adoptees' human rights are clearly articulated and acknowledged within:

1. The Federal Freedom of Information Act.
2. The Canadian Bill of Rights.
3. The Federal and Provincial Human Rights Acts.
4. The Provincial Vital Statistics Acts.
5. The Provincial Child Welfare Acts.

We realize that these five legislative areas are not necessarily within the ambit of this committee's deliberations nor its implied terms of reference. However, what we have to say may have relevance within the federal - provincial dialogue.

1. We find that, in general, constituents within the adoption triangle interpret the proposed federal "Freedom of Information Act" not as a right but as a privilege reserved for others. If this were not so, our delegation would not need to be before this committee.
2. "The Canadian Bill of Rights" does not adequately protect adoptees for jurisdictional reasons. The original division of powers between the federal and provincial governments placed family law under provincial jurisdiction.

Cumulative enactments over the past 60 years have produced interprovincial disparities and have effectively placed

adoptees across Canada at the mercy of individual provincial governments to the point where their identities and origins are now being concealed not by name alone, but by numbers. This is both an intolerable violation of human rights and an infringement of civil liberties.

3. With respect to Item #3, it must be noted that "the Federal and Provincial Human Rights Acts" exclude references to adoptees and the adoptive process and neither the federal nor provincial Human Rights Commissioners have authority to act in these areas.

4. It is clear that family health records are vital statistics for every person, adoptees included. To prove that discrimination toward adoptees exists, we refer you to Chapter 483, Section 24 (2) within the Vital Statistics Act (Ontario) which reads as follows:

"If the birth of the person adopted,

(a) was registered in Ontario before the adoption; or

(b) is registered in Ontario after the adoption in accordance with this Act,

the Registrar General, upon production of evidence satisfactory to him of the identity of the person together with an application for the registration of the birth in the prescribed form, may by order set aside any registration made pursuant to section 9, 10, 11 or 12 or to this section and cause the substitution of a new registration of the birth in accordance with the facts contained in the adoption order, judgment or decree as if the adopted person had on the date and in the place of birth recorded in the original registration been born in lawful wedlock to the adopting parent, and cause the original registration to be withdrawn from the registration

files and kept in a separate file and sealed, but in every such case, whether or not such an application is made, the Registrar General shall cause a notation of the adoption and of any change of name consequent thereon with a reference to the registration of the order to be made upon the original registration of the birth of the person, and shall cause a reference to the original registration of the birth to be endorsed on the copy of the order, judgment or decree. R.S.O. 1960, c.419, s.25 (2); 1964, c.123, s.1."

and, also, in the same chapter 483, Section 40 - (1):

"No certified copy of a registration of birth, death or still-birth shall be issued except to a person authorized by the Registrar General or the order of a court and upon payment of the prescribed fee."

In summary, non adoptees can readily obtain a copy of their birth registration upon payment of the prescribed fee, whereas adoptees are denied access to such and to their birth families except in a very restricted way and only under certain special circumstances. These circumstances can very well involve retention of legal counsel at considerable expense to the adoptee.

It should be noted that we have drawn from Ontario legislation because it is that with which our panel is most familiar. Also, there is some degree of similarity and conformity with that in other provinces.

During the past six years, Parent Finders have lobbied for provincial government registries. We have achieved some initial success in Ontario. Under appropriate auspices and with a concord of consenting adults, namely, the adult adoptee, the adoptive parents and the birth parent, a meeting is now possible between a birth mother and her adult child.

In these times, it is not conceivable that an adult require parental permission. This is contrary to the basic right accorded the adult in our society and is in conflict with Part (1), Section 15, Subsection (1) where the constitutional resolution before us is designed to protect against discrimination due to age.

Adoptee statistics are difficult to come by and none are published or disseminated by Statistics Canada.

5. Further examples of discrimination are provided in Part III, Sections 59 (2) and 80(1) of the Child Welfare Act 1978 (Ontario) which read as follows:

"59 (2) In this Part, "child" means a person whether under eighteen years of age or eighteen or more years of age."

80 (1) The documents used upon application for an adoption order shall be sealed up and filed in the office of the court by the proper officer of the court and shall not be open for inspection except upon an order of the court or the written direction of a Director."

Within the Parent Finder organization, there is widespread concern about discriminatory legislation. By inserting "blood relationship" into the non-discriminating package, the Parliament of Canada will be granting legal status and social justice to adoptees and their

families. This move to make human rights universal has to benefit all Canadians.

We hope that, as members of this committee, you will agree with us that the "blood relationship" insert may well become the key element, the most important safeguard in the non-discrimination package.

We are deeply grateful for the opportunity you have given us to state the case for the thousands of adoptees and their families across this land.

Respectfully submitted.