

[Chairman: Mr. Evans]

[10:05 a.m.]

MR. CHAIRMAN: Good morning, ladies and gentlemen. I'd like to call the meeting to order. You've received an agenda, and the items on the agenda today, as amended, are Bill Pr. 5, the Misericordia Hospital Amendment Act, 1989, and Bill Pr. 8, the Omprakash Panjwani Adoption Act. I would refer members to *Hansard* from our meeting of July 19, 1989, specifically page 29, at which time we requested that Mr. Panjwani attend again to give us additional information. He has done so and has requested that because he has commitments in Calgary, we expedite his presentation, so I would propose to allow him to make his presentation second. Thirdly, we have Bill Pr. 10, the Margaret Kenford Adoption Act.

So without further ado, I'd like to begin with Bill Pr. 5, the Misericordia Hospital Amendment Act, 1989. I'd like to welcome the solicitor representing the petitioner; that's Ms Margaret Mrazek. Good morning. We have as well Fred Barth and Gerry Hiebert representing the hospital. I would request that we begin with the swearing in, if you'd attend to that Mr. Clegg?

[Messrs. Barth and Hiebert were sworn in]

MR. M. CLEGG: Mr. Chairman, Ms Mrazek is going to act only as solicitor and not as witness.

MR. CHAIRMAN: Thank you.

I'd like to just begin by indicating to you that the practice of the committee is to hear representations. We do not make a decision on a representation today. We will have an opportunity to review it. We will then convene another meeting and make our recommendation after that meeting known to the Legislative Assembly. We'll communicate those deliberations to you. Would you like to start, counsel?

MR. M. CLEGG: Mr. Chairman, this is my report on Bill Pr. 5, Misericordia Hospital Amendment Act, 1989, pursuant to Standing Order 99. I have examined the Bill, and it does not contain any provisions which I consider to be unusual. The purposes of the Bill are, firstly, to amalgamate the two existing corporations, one which was incorporated under the Companies Act and one by private Bill; to clarify the objects of the organization; and to make certain administrative provisions, including those for the indemnification of directors. There's no model Bill on this subject.

I would like to note at this stage that unfortunately we generated the printed Bill from data in storage which did not include some minor amendments, which had been requested and I had agreed to as examiner of the private Bill. So the Bill as printed is not exactly as had been asked for by the hospital. The matters are relatively minor, and I will be distributing to the members of the committee a proposed House amendment to deal with them. As you will see, they are not matters which really have to be dealt with in great detail during this presentation because two or three of them in fact are matters which could almost have been changed by editorial change.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Clegg.

Mr. Barth, would you like to begin, please.

MR. BARTH: I think maybe Ms Mrazek will.

MR. CHAIRMAN: Fine.

MS MRAZEK: If I might, I'll give the introduction, and then Mr. Barth will respond later.

As was indicated, my name is Marg Mrazek and I am the solicitor for the Misericordia hospital. With me this morning we have Fred Barth, who is the chairman of the members of the Misericordia hospital corporation, and Gerry Hiebert, who is the president of the Misericordia hospital. As was indicated, we're here to speak for the petition to amend the Misericordia Hospital Act, and actually we're speaking to the amendments that have just been circulated to you as well being included in the Act to amend the Misericordia Hospital Act.

As was indicated by Mr. Clegg, the primary reason for requesting amendments to the private Act is a desire to amalgamate the two corporations, both having the name Misericordia hospital. The amalgamation, as I think you can appreciate, will facilitate a more efficient operation of the hospital. Section 1.2 of the Bill contains the information relating to the amalgamation.

We're also proposing other changes which are also designed for the efficient operation of the hospital. One reason for requiring this update is that since the private Act was passed in 1967, the Misericordia Sisters of Alberta, as they were later known, have departed the province of Alberta, and therefore we wish to delete reference to the said sisters. When the sisters left in 1976, an agreement was entered into between the ministers of the then Department of Housing and Public Works, the Minister of Hospitals and Medical Care, Misericordia hospital corporation, and the Alberta Catholic Hospitals Foundation. This allowed for the operation of the hospital to be continued as an active treatment hospital in the same manner that it had been carried out and conducted and operated under the Sisters of the Misericorde, only this time by the Misericordia hospital corporation.

In light of these changes there is the need to have amendments made to the Act which outline both the roles of the Misericordia hospital corporation and the Alberta Catholic Hospitals Foundation. Some of these amendments include section 2.1, which recognizes that the corporation's affairs shall be conducted in a manner in keeping with the Catholic philosophy expounded in a medical moral code, and as well sections 17.2, 17.3, 17.4, which relate to such matters as remuneration of members and directors, dissolution of the corporation, and distribution of assets. These were matters that were not required in the Act when the sisters operated the hospital because they did operate under the Catholic philosophy and also because they belonged to the Misericordia Sisters of Montreal, there was no need to address such things as dissolution and distribution of assets.

Other amendments which have been proposed include such matters as revising the objects, and this is in section 2 of the amendment Act. The reason for amending the objects is to better reflect the Misericordia hospital's role in the health care field today in Alberta and to also redefine the powers of the corporation so that they are consistent with other Acts, such as the Business Corporations Act. In this regard we actually repealed sections 4, 5, 6, 7, and 8 of the 1967 Act and have replaced it with one section, section 2.2, which is in the amendment Act, which provides that:

The corporation has the capacity, rights, powers and privileges of a natural person.

Amendments have also been made to more specifically outline the structure, powers, and responsibilities of both the members and the directors. These amendments are outlined in sections 11.1 and 12 of the amendment Act.

The proposed amendments that are before you have the full support of the members of the Misericordia hospital corporation as well as the Alberta Catholic Hospitals Foundation. The Misericordia Sisters of Montreal are aware of the said amendments to the extent that they know we are amending the Act. They are aware of the existence of the two corporations, because they were in existence while the sisters were operating the hospital, and realize why there is a need to amalgamate the two corporations. They have also instructed us to repeal an Act which refers to the Sisters of Mercy of the North West Territories, which was the name the Misericordia Sisters were known under when they first came to the province. That is also noted in the amendment Act.

We propose that rather than reviewing each amendment which is before you, we would rather leave it open to questions from either the Chair or members of the committee. Mr. Barth or Mr. Hiebert would like to address any questions you may have relating to factual matters, and if there are any relative to legal aspects, then I would be delighted to answer those questions.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you very much.  
Committee members. Mrs. Gagnon.

MRS. GAGNON: Thank you. Ms. Mrazek, under section 2.1, that amendment where you indicate a desire to operate the hospital in the manner in keeping with certain principles and so on, could you outline just what those principles would be and how would that make this hospital different from the other hospitals that are operated in the city of Edmonton?

MS MRAZEK: I'll let Mr. Barth answer that, if I could.

MR. BARTH: Well, I guess the Misericordia has operated for a number of years on the same philosophy. The philosophy under which the hospital has operated has not changed since the sisters left. In trying to come up with something which would define us, we decided that the most appropriate would be the medical moral code of the Catholic council of bishops.

I guess the item that today would receive the most publicity would be the abortion issue. We do not do abortions. We have not since the hospital was started by the sisters. We like to feel, however, that instead of saying something you don't do, there are a number of more positive matters, which is the level of caring which is exemplified in the hospital, and it was part of our philosophy, which we think the staff have instilled in them -- would continue to permeate.

MRS. GAGNON: Other than the approval from the Canadian conference of bishops, do they have any role other than just approving the code of conduct?

MR. BARTH: No. There is a slight variation on that. The Alberta Catholic Hospitals Foundation -- you'll notice it mentioned, and it has a representative on the board. In the event of dissolution of this corporation, any moneys or anything would flow to that foundation. That foundation in effect is the repre-

sentative of the five Catholic bishops of Alberta. There is the proviso -- and it's in our equity agreement with the province, and it's in here -- that any moneys that did flow on dissolution would have to be used for health care purposes in Alberta.

MR. CHAIRMAN: Mr. Brassard.

MR. BRASSARD: My questions have been answered, Mr. Chairman, thank you.

MR. CHAIRMAN: Any other questions from committee members? Would you like to make any other points in summation, then?

MR. BARTH: Yes, maybe if I could. Just one thing: we're trying to do a bit of housekeeping and at the same time recognize that the sisters are no longer present at the hospital, and I guess really we're trying to continue some of their heritage. The Sisters of the Misericorde, together with other, in many cases, religious orders, really started hospitals in western Canada. We are trying to continue their tradition of caring, and the vast majority of this really is housekeeping, recognizing today's realities.

MR. CHAIRMAN: Well, thank you very much for your presentation, and we'll be back to you soon.

MR. BARTH: Thank you.

MR. CHAIRMAN: Committee members, the next matter we will deal with will be Bill Pr. 8, Omprakash Panjwani Adoption Act.

As you will recall, there was some information passed on to Parliamentary Counsel concerning the natural parents of the adoptee. We felt at our last meeting that it would be prudent to request that Mr. Jamnu Panjwani attend this committee and make his presentations under oath and allow us an opportunity to ask some questions. There's also the other issue, of course, of the immigration status of the young man, and that will no doubt be questioned as well.

So if we could start please, Parliamentary Counsel, with the swearing in.

[Mr. Panjwani was sworn in]

MR. CHAIRMAN: Thank you for appearing before the committee again today, Mr. Panjwani. I'm not sure whether Parliamentary Counsel has a further report to give this morning or whether . . . You do?

MR. M. CLEGG: Mr. Chairman, I might just summarize the reasons why we asked Mr. Panjwani to return. In correspondence to me he had brought up an issue which I felt was relevant to the committee's consideration of the Bill, and that was the mental and physical ability of Om's parents. In addition, in reviewing the evidence which had been presented to the committee and talking to one or two members, it appeared that there had been some lack of understanding in a couple of the questions relating to the present status of Om's sister, and where she was and what her situation was, that we could perhaps clarify further. In addition, Mr. Panjwani had told me that following the last meeting and prior to this meeting there has been an im-

migration hearing relating to Om's status in Canada as an applicant for landed immigrant status. All of those issues, I felt, were matters which the committee should have some direct evidence on under oath. Several days ago we contacted Mr. Panjwani. He was able to come today.

MR. CHAIRMAN: Thank you, Mr. Clegg. Again, I'd refer the committee members to the reference I made at the beginning of the meeting to *Hansard* on page 19, from our last meeting on Wednesday, July 19: a discussion of this matter. That now being before the committee, we will ask Mr. Panjwani to please make any presentations, submissions, that he would care to make, and we'll then ask for questions from the committee.

MR. PANJWANI: You want me to go ahead and say something?

MR. CHAIRMAN: Yes.

MR. PANJWANI: Okay. Om, my son, will get citizenship -- we had, last time, a meeting with them -- because he came into this country as a minor. Since then he has lived here continuously, close to 10 years. He had all his schooling in Montreal and Calgary. He has a diploma from Mount Royal College of Calgary. They said that because he has in a real sense grown up only in this country, that is one of the reasons he qualifies for immigration.

Also, at the top of it, after finishing his diploma, he has worked as a systems analyst in Calgary. So that also, they say, helps him to establish in this country, because they look at people for citizenship or immigration from this point of view: how successfully the man will be able to establish himself. Apart from being my family member and my being a Canadian citizen, I have looked after him, and I say that he's my son. So they said that because of these factors, he will get his citizenship. That's one thing.

To summarize the whole thing, what I'm saying is that I took it upon myself right from the very beginning when Om was born, because my mother gave me this order, sort of. We are still a joint family, although my older brother, who is mentally retarded, is in India. My brother is only two years older than me. My brother had difficulty going through school, but my father was a government servant, and he insisted that he must pass high school. Now, why I am saying this is to try to give you the clue that my older brother, in fact, is not up to the mark.

What happened is that we still have that house. My father told my mother, "Leave that other part of the house for Gagu." That's my older brother's name, Om's natural father. But my mother -- you know how mothers are -- committed another blunder, I remember. She found another semi-retarded lady that she got him married to. Now, in those days I was in school, and then I went to college. Finally, the time came and my father died, but before he died, he managed to . . . I remember my older brother. He appeared six times for the high school diploma. My brother used to beg my father. He'd say: "You leave me alone. I'm not cut for this diploma." But I used to overhear my father telling my mother that if he didn't have a diploma, the way it is in India, he'd never get a job where he can have a chair and a desk; all his life he will be a peon. In India if somebody does not have matriculation, you'll never get an office job. So my father pushed him, and with the sixth or seventh attempt, finally my brother got his diploma.

Anyway, then these two children were born. First Om was born, and then he also had a daughter, Neelam. When my father died, my mother got me, all right. She said, "Listen, we have to look after these children." I said, "Ma, no problem." You know, I was young then and bursting with energy. I thought it was so simple. But now at 46 I look back; it was quite a job.

Last time I tried to make it short because I didn't really want to clean my linen in public, but if it comes to . . . Anyway, I got the opportunity and I worked in the Middle East and then finally came to Canada as an immigrant. Subsequently, I am a citizen. As I always loved my mother and she will always keep writing me, I was sending money to them, because my brother, Gagu, is not making enough money to live a decent life, although they have the house and everything fully paid. I invited my mother to come and visit me in Montreal, and she said, "I'll bring . . ." Which was normal for me to hear, so I said: "You bring one of the children." My brother and his wife could probably at least look after one child. When she brought Neelam here, she was seven years old. Because my mother was growing old, she put in on me. She said, "You look after these two children." I said, "Yes, sure; I will."

Then my mother said that we have to -- we were realizing that sometimes it's very difficult in legal points when we say that he's not my son; he's really my nephew. So my mother convinced me. She said, "I'm going to adopt Neelam, and you eventually adopt his son." What she did is she adopted his daughter. At that time Om was still in India and going to an English school and everything. He was under my care. So then when Om was still in school, I realized that he was my responsibility, and it would be very important that he was near me, because as he was growing, my brother also wrote me. They don't understand a growing child's problems, his parents. So then I got Om here and put him through school and the college diploma. He lived with me, and everything went smoothly, you see?

I wanted to adopt him always, all these years, but I didn't know. Somebody said that after 18 you cannot adopt a person. Then when I was talking to some knowledgeable person, I realized that I could do it through the Legislature. That's how it came to me. Then when I started working on it, my nature is -- I found out from some lawyers that they want big fees. So I said: "I can do it myself. I seem to understand." It took me in preparation almost the last two years, and then the election came, and that's how the date came to be this late. All these years Om went to school and lived with me, and he is in fact, the way my daughter understands, her brother.

Nature, as if it was not enough for me -- when my Montreal-born daughter was about three years old, I realized that my wife had schizophrenia. As a matter of fact, she had a doctorate from McGill University, and she was working for McGill University in Montreal when I married her. Then we had a child in less than two years; that's Anita. After Anita was hardly two or three years old, suddenly she had a lot of trouble with the work. So I went into it, and it took a lot out of me. Schizophrenia is such a thing that these patients can put up a front; sometimes they come through as very intelligent people. Anyway, it was quite a case, and I was successfully able to establish it, and she went on long-term disability.

Because of her sickness, it was very hard on me, so that went on. The way she is, she wants to live separate. I couldn't think that when Anita was so little and I was at work, up to 6 or 7 p.m. -- who would look after her? So somehow I kept my wife

together also. I said, "We have a little daughter; you don't have to separate." This is [inaudible]. Finally, it had lasted three years and Anita was big enough; now I think it's entering a part of my wife's brain, a disturbance that they technically call schizophrenia. If she's separate in a small apartment, then she feels a lot more comfortable. Now, I realized I had Om. When Anita was little, if my wife wanted to move out, she didn't ask Anita. She took her by the hand and went out. Then I started crying. I said, "Don't take my daughter, because you cannot even look after yourself." So then my wife stayed again.

But this time Anita made it very easy. Anita told her: "Mom, you take an apartment nearby. I'm big enough. I'll stay with my dad, and we'll visit you." So on an experimental basis I said there was nothing wrong with that, and for about two or a little more years my wife has lived across the street. Because of her past good work with McGill University, she gets a substantial pension on a long-term disability. So she's there, and now we visit her. Anita is 14, a very intelligent young lady. So that was that. All these years when Om was going to school, he was very near and dear to me and good emotional support too. Everything went okay.

But this could be one of the reasons, you know, the stress of living -- I could have adopted even earlier. But very soon he was 17 and then 18, and somebody told me that once somebody's 18, then you are an adult. So you cannot adopt him. Then I just quit on it. I was busy sending him and my daughter to school, and then he went to college. But it was always on my mind, because what happens is that now he has such a good college degree. Suppose he gets a job in the U.S. For me and my daughter to be trailing him or going with him as an uncle and cousin -- a cousin becomes very difficult. But a father and a sister: in reality, life becomes a lot easier, controllable for us. I say he is my son, and we mutually agree. When I found out that the Legislature is the only way, then I worked on it. I found Mr. Clegg, and he was very kind to guide me through the whole thing. So that's how I came here.

I think I have said enough.

MR. CHAIRMAN: Thank you, Mr. Panjwani.

There may be some questions resulting from Mr. Panjwani's presentation and any other questions. I believe, Mr. Brassard, you had a question.

MR. BRASSARD: Yes. Mr. Chairman, I certainly don't want to reflect on the credibility of the statements we've received, but has it been established to what degree Om's parents are mentally disabled?

MR. CHAIRMAN: Can you specifically answer that, Mr. Panjwani?

MR. PANJWANI: Yes. In the beginning I tried to tackle it. Now, my father was in a good position in India; he was holding the family together. As you can see, my brother is one of those people that if God created all people like him, this world would be a better place. He wouldn't bother anybody, but he's very quiet and quiet to the point that he will give a good impression that he is retarded. He cannot deal with the day-to-day problems in life at all. In all his schooling he had trouble with other boys. I remember, because as I said he's only two years older than me, that he always used to come and complain about other boys. Then my father used to say: "Well, you cannot stand on

your feet. You're not dressed well. It's obvious those children don't know any better, so they bother you." Then, my father will insist that he go to the school. Because in India also there is no such thing like here: my daughter goes and babysits or things like that, or young people go and work in McDonald's. No. So he said, "You stay in your home on vacation and go back to school," because he knew that with our family background, he would eventually get something, you know, a simple job, if he finished high school.

Up to grade 9, 10, 11, he did the local school exams. I remember my dad going and meeting the principal and talking to teachers, and they said that he should stay in the same grade. Sometimes they kept him two years, but they kept pushing him. Okay. But when he reached grade 11 -- in those days which was like an exam by the board, you see, a matriculation board -- he failed there plenty of times.

My mother also was very much in trouble, and I remember him telling my mother: "Leave him alone, and don't ever get him married. The house we have, divide it into two parts, and give him half of his part so he can live his life peacefully, because he's not bothering anybody." But by the same token, if you sent him to the market to fetch vegetables, he would bring all the rotten potatoes and rotten onions. He wouldn't have the imagination to say: "It's a big heap. I have to take the ones that I would want."

So it went on, and then he passed high school. One of my uncles, my mother's brother, was the chief engineer in one big company. So my mother went and cried to him. She said, "Listen, now that this fellow has passed the matriculation, you've got to find him a job." But he said, "Nobody is going to look at him, because of the way he is." But she cried so hard that he got my brother a job there, and he's there since then. He joined as a junior filing clerk. He's still doing the same thing. Early morning my mother, with the help of his wife -- you see, his wife is totally uneducated, and she is semiretarded. Nobody wanted to give their daughter to this type of person, but my mother looked and looked.

So what I am saying is that now he is there. Then, my mother said that I have to adopt these children and look after them. So I took that word. I was fairly young, and it went into my system, you see.

MR. CHAIRMAN: Thank you very much.

Mr. Brassard.

MR. BRASSARD: Could I ask Mr. Clegg if he has received any medical documentation of the degree of disability that the parents . . .

MR. M. CLEGG: No, Mr. Chairman, there has been nothing filed on medical evidence of disability. My understanding from Mr. Panjwani is that this is regarded as a family matter and that the brother has not been legally declared to be incapable. He is not legally in the custody of another person in India. The family manages to look after him. Is my understanding correct, then, Mr. Panjwani?

MR. PANJWANI: Well, frankly, we all, including my father, and after that, me and my mother . . . You see, that house belongs to my mother, and he shares this house with his mother. We do not per se go and make an issue of telling him that Neelam has been adopted by mother and my mother is the one

who partially feeds him from her own money or the money that I send. On the contrary, we make him feel very comfortable, because he will otherwise break down. So we try to have at least to him one child around.

MR. CHAIRMAN: Fine. Thank you very much.

MR. BRASSARD: Do I clearly understand that the degree of disability is as the petitioner presents it, solely? With no reflection on the petitioner.

MR. CHAIRMAN: Well, we listen to the evidence, and we make a judgment on the evidence.

MR. BRASSARD: I'm talking about the degree of disability. Am I right in that assumption, Mr. Clegg?

MR. M. CLEGG: Yes, Mr. Chairman. There is no documentary evidence. The evidence we have is as stated by Mr. Panjwani under oath.

MR. BRASSARD: Then, very briefly, Mr. Panjwani, at the beginning of your presentation you did mention immigration, and this seems to be a factor. It would be easier for Om to obtain status of citizenship by being an adopted member of your family. Just very briefly, is that a yes or a no?

MR. PANJWANI: The citizenship and immigration law is very clear. They draw a line at 13 years of age. If any Canadian citizen adopts anybody, a so-called minor, once he has reached the age of 13, it has no bearing whatsoever on immigration.

MR. BRASSARD: Yes, I realize that, but it has also been pointed to this committee prior that it does have a bearing. I don't want to dwell on that. I would just point out that much of what you want to accomplish with Om can be done without going through the process of adoption. Inconveniences such as traveling abroad and this kind of thing are strictly that, inconveniences, and really wouldn't dictate the need for an adoption.

MR. PANJWANI: Yes, sir, it does. Because at 46 I have arthritis, and I have paid my dues. I have looked after these two children. Now, I have a young, growing daughter. He's got an education. I never wanted to say that, but it is a fact of life. So what I'm saying is that I deserve all those things that I get as a father. When he was two years old, it was the first battery-operated airplane I ever sent him from Montreal to Bombay. These things I did because I knew from my mother that he is my son and he's going to be my son. So what I'm saying is that now -- and, you know, life hasn't been very kind to me. If you look at my bank balance, you will laugh. I used to be very ambitious, but now at 46 . . . He has a good degree, and I still have 14-year-old daughter and also his sister Neelam. I have very successfully put in him those seeds that were in me, the family unit. Now he is so much with me that we have to have the money saved and make sure first Neelam gets married. Then it is him, because Anita is very smart.

So what I'm saying is that I realized more so ever in the process that I should have this legal paper that I am his father, because, like you said, the traveling or many, many things. As a father I have a lot more rights, and he also is knowing the depth of the troubles that I went through. He says that you get it be-

cause he knows his obligations and responsibilities as a son. Like I said before, in my practice and thinking especially, he's my son. So I do think that I should have this legal paper that he is my son to save my energy, and I'll be easier in the rest of life, you see.

I deserve a son whom I grew. It's like a seed, and he's a tree now. His shade . . . Although I am the way I am, you know, a very self-supporting and self-made person, but what happens tomorrow? Who knows? I never thought that out of so many millions of people my wife would be the one who would have schizophrenia. So what I'm saying is that I'll be living in a fool's paradise. He is my son, and I have seen during the course of time that this paper that I have come to request here, that legal adoption is very important. It is so hard at my age, to talk and talk and explain. I'm not surprised. You see a new person, and you talk to him. It is not something that I can explain. Now, with this you are one stamp. I have to keep my mouth shut. I'm walking in. I say he's my son, and I don't have to keep talking about my old whole story to everybody, you see. I myself was nine when I was looking after with my hard-earned money and with my hard work. I thought: well, between my nephew and me, he's my blood. I've taken my word from my mother, and he's my son, and there we go.

MR. CHAIRMAN: Thank you, Mr. Panjwani. I think you made your point.

Mr. Brassard any other questions?

MR. BRASSARD: No.

MR. CHAIRMAN: Okay. Mr. Lund, you had a question?

MR. LUND: Thank you, Mr. Chairman, my questions have been answered.

MR. CHAIRMAN: Thank you.

MR. DOYLE: Mr. Chairman, perhaps my question would be to Mr. Clegg. I truly accept the evidence given by Mr. Panjwani. I feel that he has represented himself and his nephew in the best way possible as an immigrant to this country, but I do have some concerns whether or not we in this committee should be addressing the question of whether the mental health of the parents should come into the decision-making or we should even be dealing with a person who is not a citizen of this country. I do accept that the gentleman has looked after this young man and his family very well. I just want to be clear whether we should be addressing these questions based on whether he's a citizen or not or the mental health of the parents, whether the document is, in fact, legal if it is from a person who is mentally handicapped.

MR. CHAIRMAN: Thank you, Mr. Doyle.

Mr. Clegg, do you have some comments?

MR. M. CLEGG: Mr. Chairman, I think that the relevance of the ability of Om's parents is, perhaps, merely to explain why Mr. Jamnu Panjwani undertook this responsibility of looking after his nephew. It probably doesn't have a great deal of bearing on whether or not that nephew status should be upgraded to a son status, but it does explain why it is difficult for Om to have a proper relationship with his natural father.

With respect to the immigration issue my understanding is

that the immigration hearing, by coincidence, was very, very shortly after our first hearing on this Bill. In fact, I think it was the following week or the following day. With respect to immigration my understanding is that they have said to Mr. Panjwani and to Om that they would approve his application provisionally, and they're having another meeting with him in the near future. Is that correct, Mr. Panjwani?

MR. PANJWANI: Yes.

MR. M. CLEGG: Thank you. In that application he, of course, has been presented as your nephew and not as your son because that is his legal status at this point in time.

As Mr. Panjwani stated, the official position under the Immigration Act and the regulations is that an adoption after the age of 13 is ignored. From the official point of view the evidence given to this committee last year by officials from Immigration Canada included an analysis of whether the fact of the adoption would have any effect in the discretionary areas of assessing a person for points. There are a couple of very brief statements from these officials that I might like to read to the committee briefly, which I think summarize the situation.

For purposes of the Immigration Act you can sponsor a son and daughter as a member of the family class if they're either your natural offspring or if they were adopted prior to their attaining 13 years of age.

That was related to the sponsorship factor.

Generally speaking, the fact that children became legal children through adoption would play a role in assessing the immigration application, but

what we would be trying to examine in any case of this nature is the relationship that was established as a result of the adoption. That is, was there a relationship of parent and child established? Quite frankly, I would say that it will be difficult for the persons concerned in this particular case . . .

We were referring to a situation where the children were outside the country and had not ever lived with the proposed adopting parents. It would be difficult for them

to establish . . . to an impartial third party that in fact a relationship of parent and child was established.

MR. CHAIRMAN: Perhaps, Mr. Clegg, you could refer specifically to your reference.

MR. M. CLEGG: Yes. That is in the transcript of the hearing on a private Bill last year on page 74 of the transcript of June 8, 1988.

Later, in asking some questions of the authorities, I was trying to get a clear statement from them as to whether or not the fact of the adoption would affect their assessment. I asked -- this is on page 76 of the transcript -- whether it would apply in a discretionary area to bring up the number of points if the person has adoptive parents in the country. The essence of their answer was that if it was a son adopted before the age of 13, they would get an additional five points for the kinship bonus, but if the adoption was by private Act following the age of 18, it would not be recognized as kinship. What the authorities then said after further questioning by me was that they agreed that the factors which led up to the adoption being granted would also be factors which would be considered by the authorities as to whether or not there were emotional and compassionate grounds, humane and compassionate grounds, for granting the adoption.

The adoption itself wouldn't influence them, but they would be influenced by the very same factors as we are being asked to consider now by Mr. Panjwani. They did admit that the attempt to adopt would be a credit in the favour of the adopting parents because it would show their seriousness in the matter. But the point they made was that it was not the adoption itself that would influence them, whether or not it was granted, but the factors behind the adoption: the history, the time spent, the quasi-parental commitment and contribution that had been made. Just as we are looking at those factors now as to whether or not we'd grant an adoption, the authorities would look at the same pre-existing factors as to whether or not they would be influenced with respect to the immigration.

But at this point in time I understand that the immigration application is current and is proceeding and may or may not have been affected by this application. Can Mr. Panjwani tell us whether the immigration authorities know that he is making an application for an adult adoption by private Bill?

MR. PANJWANI: Yes.

MR. M. CLEGG: They do.

MR. PANJWANI: They know.

MR. M. CLEGG: They know. Thank you.

MR. CHAIRMAN: Does that answer your question, Mr. Doyle?

MR. DOYLE: The other question that wasn't answered is whether or not this committee should be addressing the mental health of the legal parents. Is it really necessary that we have to address that question, or just base our decision on the fact that he's made a proper application? In fact, if they are mentally handicapped, is the document legal, where they state that they are turning the child over to the brother?

MR. M. CLEGG: Mr. Chairman, my understanding from Mr. Panjwani is that the parents have not been determined legally to be mentally handicapped in India. It may be that that is not often done because the family looks after them anyway and have not needed the legal powers which you get if you become a guardian of a handicapped person. Whether the committee regards this as a relevant issue is for the committee to determine. It can either regard it as an important issue or it can regard it as merely an explanation of what has happened in the past. What has in fact happened is that Om has been in the custody of the petitioner for many years during his childhood, and this is the reason for it. It may be that the committee will regard that as being the significance of that issue.

The committee has also expressed some concern about the need for consent from the natural parents. They have given that consent. The committee may be concerned about the validity of that consent, recognizing the incomplete understanding they might have about the situation or the mental capacity that they have to make that consent. They are not legally determined to be mentally incapable, so there is no legal document that we have seen one way or the other. In fact, there is no legal document to say that they're incapable of handling these matters, so the consent they have signed is not per se invalid, I would say

MR. CHAIRMAN: Thank you, Mr. Clegg.  
Next on line is Mrs. Bonnie Laing.

MRS. B. LAING: Thank you, Mr. Chairman. I would like to ask: is your mother still alive?

MR. PANJWANI: Yes.

MRS. B. LAING: And is she living in Montreal or India?

MR. PANJWANI: Right now she is in Bombay, and my brother lives in her home.

MRS. B. LAING: He's living in the other side of the house?

MR. PANJWANI: No. Joint family together because Neelam officially is adopted by my mother, but she doesn't make that a big issue or anything. We want him to have normal feelings, and his wife too. So this has been very ideal because they live in the same place.

MRS. B. LAING: So Neelam is in India, then, with the mother and her mother and father?

MR. PANJWANI: Right. My mother, Neelam, and my brother and his wife. Their house is such that it was bought by my father. Everybody can have a room and a common kitchen and a living area.

MRS. B. LAING: What provisions have been made for Neelam's education? What is she receiving?

MR. PANJWANI: Well, God really helped us there, because she has finished high school and writes us constantly. I even write her as a daughter, you know. She is now in college getting a B. Comm. I used to write to her to go into anything, because sometimes it's very difficult to get admission into a medical school. So I said that she could be, like my cousin, a physiotherapist or anything to do with a hospital. I keep writing to her, but she is in accounting. She's taking first year commerce.

MRS. B. LAING: Thank you.

MR. M. CLEGG: A quick supplementary, Mr. Chairman. Was Neelam adopted under Canadian law when your mother was in Montreal, or was she adopted in Indian law?

MR. PANJWANI: No, in Canada, in Montreal. But my brother signed the same affidavit as the affidavit he signed when I was in the process of getting legal custody for Om and other things. We wrote to him and got all the papers from him: affidavits, everything.

MR. CHAIRMAN: Mrs. Hewes.

MRS. HEWES: My question has been answered. Thank you.

MR. CHAIRMAN: Mr. Brassard, I think you had another question.

MR. BRASSARD: Yes. I'd only like to clarify, and I don't

want to harp on this, Mr. Chairman. I would want to be absolutely certain that the natural parents have the mental capacity to fully understand the ramifications of putting their only son up for adoption.

MR. PANJWANI: May I reply to that?

MR. CHAIRMAN: I think you've answered as best you can. You're not capable of course, Mr. Panjwani, of giving a medical opinion, and we don't have any medical evidence before us that there is an incapacity. But there certainly seems to be some indication from the evidence that there might be some incapacity. We don't have any medical evidence, however.

MR. WOLOSHYN: A couple of questions. You indicated that your wife is living across the way from you. Are you legally divorced?

MR. PANJWANI: Yes, I am.

MR. WOLOSHYN: So then if you adopt your nephew, he loses a mother and a father and gains a father but no mother.

MR. PANJWANI: I didn't understand the last part of your question.

MR. WOLOSHYN: I say that if you adopt your nephew legally, then he will no longer have a mother.

MR. PANJWANI: Yes, you are right, because I have no wife.

MR. WOLOSHYN: Pardon me?

MR. PANJWANI: Because I am divorced. You see, my wife's condition is schizophrenia, and now that Anita grew to a certain level, it was her decision. I go and look after her and take Anita to her, but my wife said that for one thing she wants to stay by herself. Also she said that she wants a divorce. So I said, "Lawyers cost so much." Then we went to a paralegal together, and you know how it is: the divorce is easy when you have no objection, when the both parties agree.

MR. CHAIRMAN: Excuse me, Mr. Panjwani. Mr. Woloshyn, I believe that this is a paternal application for adoption. There is no maternal application, so the status of Mrs. Panjwani would not change by this application.

MR. WOLOSHYN: Another question that I have is that you indicated that your uncle in India has given your brother a job. How many years has he worked at that job for your uncle, and is he still working there?

MR. PANJWANI: My brother finished his high school around 1960 or '61. Then after one or two years of struggling to find a job for this kind of person, my uncle, my mother's brother, found him a job as a junior filing clerk. He's been there since then.

As a matter of fact, you see, I have a lot of proof that my brother is in fact a retarded person. Not very long ago -- my brother does this very often. He writes me big letters. He said he wants to resign his job. I said, "You need money from the job to live." Also, if he is still at home and doesn't go out to

work, his condition will actually worsen. So he, in fact, actually resigned very recently. Then my mother and another relative -- I get all this in the mail, you know -- went back and told them that this guy is mentally not capable of making the decision and to for heaven's sake take his application back. They did hire him back, because they have certain laws. If somebody is working for 20 years, they cannot fire him like that. So in spite of the fact that he does a lousy job, he's there. They don't give him a promotion, but he's there sitting in the corner, you see. Recently now -- it's mental, you see; his brain -- he just resigned. Then my mother, who is so old but still she writes me, was crying. I wrote him back. I said, "How can you do that, Gagu." He said, "Those people there give me a hard time."

MR. CHAIRMAN: Thank you, Mr. Panjwani.

MR. WOLOSHYN: Thank you, Mr. Panjwani. I understand from your answer that your brother has in fact maintained a job for over 20 years.

Just a comment that I would like to make is that I find difficulty with the fact that you feel it necessary to continually explain that your nephew is not your son. Because you are both adults, both with the same surname, I can't, frankly, see an awful lot of confusion.

However, one other question that I would like to ask you, and just a straight yes or no would suffice. Traveling to the United States is not difficult if you're a Canadian citizen. It may be somewhat difficult if you are an immigrant. Do you, because of your nephew's qualifications, plan on moving to the United States?

MR. PANJWANI: No, not per se. There are no definite plans. If you want, I'll explain more on it.

MR. CHAIRMAN: No, I think that's adequate.

Thanks, Mr. Woloshyn.

Mrs. Black, I think you had a question.

MRS. BLACK: Yes. Thank you, Mr. Chairman. I just wanted to have clarification. Mr. Panjwani sent us a letter on July 2 of '89, and I guess I'm misunderstanding this. In the letter, in the last paragraph, it says:

Please note that Om's natural sister Neelam was adopted by my mother . . . in Montreal for the same reasons of my adopting Om: to make . . . these children never suffer due to the handicap of their parents.

I maybe misunderstood, but I understood your mother and Neelam were in Montreal. Are they living in Montreal and visiting India, or are they living in India and were they visiting Montreal? Is Neelam a Canadian citizen?

MR. PANJWANI: She is a Canadian immigrant. Yes. We had this for the mental well being of her natural parents. Another thing is that as a girl she should have some cultural exposure, so she has spent a lot more time in Bombay than in Canada. My mother and she are landed immigrants.

MRS. BLACK: But are they living in Canada, or are they living in India?

MR. PANJWANI: Right now they are in Bombay.

MRS. BLACK: So they don't have residence in Canada?

MR. PANJWANI: They can come back any time, because as landed immigrants they are free to come and go.

MR. CHAIRMAN: I think that clarifies the situation, Mr. Panjwani. Thank you very much.

Thank you, committee members, for your questions. Mr. Panjwani, thank you very much for coming up to Edmonton today to bring us this additional information. We appreciate it.

MR. PANJWANI: My final request. I have looked after him, I love him, and in fact he is my son. I think I should get that right legally. It took me so much to explain to this committee. Now you can see my plight if somewhere else in life there is no possibility of explaining. It will keep our family together if he's adopted. Now my mother and Neelam will join us as usual. I just feel that this is something which I deserve, and I request your good selves to grant me this thing.

MR. CHAIRMAN: Thank you, Mr. Panjwani.

Committee members, we have one more Bill to deal with today, and that is Bill Pr. 10, the Margaret Kenford Adoption Act.

While we're waiting for the third application, committee members, I'll just make a couple of points. The first is that we should be having an in camera meeting fairly quickly to review the Bills that have been presented to us up to this point in time. The agenda for next week is three applications: two private adoptions and one for the Edmonton Community Foundation Amendment Act, 1989. That will be the end of the applications. I would like to suggest that if the time frame is conducive, we could have an in camera meeting immediately after reviewing those three private Bills, because time is becoming of the essence and I think that would be opportune. So if you could consider that in terms of your scheduling for next week.

Also, on an administrative matter, Mr. Clegg and I have discussed and we've agreed that we will be providing binders in the very near future for an orderly keeping of all the information that is given to you. Probably some of you are not the neatest in the world. I'm speaking for myself specifically. I think that will be of much benefit. So we will be giving those out to you in due course. We'll certainly have them ready for our session in the early part of 1990.

Committee members, I'd like to point out that Bill Pr. 10 has representation from Mr. Hamish Henderson, counsel. Ben and Joyce Gibson are here, as well of course as Margaret Kenford.

I'd like to point out to the applicant and the counsel that the process here is that we will have you sworn in, we will listen to your presentation, and we will then ask for questions from committee members. It's not the procedure of this committee to reach a decision today. We will review the evidence that's been presented to this committee. We will then make a finding, a decision which we will communicate to the Legislative Assembly, a recommendation really to the Legislative Assembly, and we'll communicate those steps to you.

So thank you for being here today, and I'll ask first that we have you sworn in. Parliamentary Counsel will attend to that. Thank you.

[Miss Kenford, Mr. Gibson, and Miss Gibson were sworn in]



MR. CHAIRMAN: Thank you, Mr. Clegg. As in the past when we have counsel, counsel are not normally sworn. The applicants are sworn, and counsel will really be addressing the legal issues.

We'll begin with Mr. Clegg's report.

MR. M. CLEGG: Mr. Chairman, this is my report on the Bill pursuant to Standing Order 99. This Bill deals with the adoption of an adult. There is no model Bill on this subject although its form follows closely that that we have dealt with before on this type of subject. Apart from the adoption itself, the Bill does not contain any provision which I consider to be unusual.

Thank you, Mr. Chairman.

MR. CHAIRMAN: Thank you, Mr. Clegg.

Could we begin then. Mr. Henderson, are you going to begin?

MR. HENDERSON: Perhaps it might be easiest if I do this by way of presentation and simply have these people affirm that my statements are adopted as their evidence. There should be no problem with that. Thank you.

Ladies and gentlemen, as Mr. Clegg has indicated, this is a private member's Bill for the adoption of Margaret Kenford by Mr. Walter Bentley Gibson. I should perhaps start with a little bit of background on Miss Kenford. She's originally from England. She's lived here since she was about six years old. Both of her parents are long deceased. Her mother passed away when she was six years old. She has no other known relatives in Canada. She apparently has some distant relatives in England whom she has never met. For many years -- in fact, the ladies advise me about 27 years -- both Mr. Gibson's daughter and Miss Kenford have been very good friends. They've gone so far as to even purchase a property together. Miss Kenford has long been considered to be a member of the family. Miss Gibson sees her as a sister, and Mr. Gibson sees her as somewhat of a daughter.

The basic problem that brings them here today is that neither of them have married. Both of them are residing in the same residence. Neither of them really have any family, other than Mr. Gibson in the case of Joyce, and she does have a few other relatives in the Edmonton area but no close relatives. They have become increasingly aware of some of the problems with respect to having next of kin, particularly in Margaret's case, with regard to legal issues, whether there's an emergency, an accident, death, what have you. They, of course, found the Child Welfare Act does not provide for the adoption of anyone over the age of 18, and therefore they must take this route in order to remedy their situation.

Certainly, I think I've managed to put this matter down to three main points. One, it will give a sense of belonging to Margaret Kenford, a sense of belonging that she's never enjoyed, a sense of family, of unity. It will also give the same sense to Mr. Gibson and to his daughter, Joyce. Certainly, I think that all of the parties show by their appearance here before you today and by their having taken the necessary steps to get to this point their seriousness in this matter. I think that it also increases the family support base in both Miss Kenford's position, as having a family support base, and also actually with Mr. Gibson in his advancing age as having a further support base in the way of another daughter. There's now somebody to represent Margaret's interests in an emergency.

The third point I would just make is that we don't feel it is against public policy in granting this application at all. We're not attempting to get around any existing legislation, other than perhaps adding to the Child Welfare Act.

Those would be my submissions, and certainly I might answer any questions that you might have.

MR. CHAIRMAN: Thank you, Mr. Henderson.  
Committee members?

MRS. HEWES: Just a couple of questions, Mr. Chairman, please. Is Joyce Gibson Mr. Gibson's only child?

MR. GIBSON: No. I have a son who lives in Lloydminster, and I have some grandchildren and great-grandchildren, et cetera, et cetera. Does that answer your question?

MRS. HEWES: Yes, thank you. So you have a brother?

MR. HENDERSON: Yes, she has a brother.

MR. GIBSON: Yeah.

MRS. HEWES: Thank you. The other question I have, Mr. Chairman, is: Margaret Kenford was raised within the Gibson family after coming to Canada at age six?

MISS KENFORD: No. My mother died when I was six. My father worked out on the oil rigs, and I was passed off from family to family. I never knew a home.

MRS. HEWES: So, Mr. Chairman, just to be clear. Miss Kenford is a part of the Gibson family in her adult life, not as a child?

MISS KENFORD: Yes, from the age of 18.

MRS. HEWES: Thank you.

MR. CHAIRMAN: Thank you.  
Mrs. Gagnon.

MRS. GAGNON: I believe my question has been answered. I was going to ask Miss Kenford how she came to know the Gibsons, and how she came to reside with them in their home.

MISS KENFORD: We met in the military, and from there we just got to know each other. I've called her father since we met, and her mother, too, before she passed away.

MR. CHAIRMAN: Thank you.  
Mrs. Black.

MRS. BLACK: Thank you, Mr. Chairman. A couple of questions. One to Miss Kenford. When did your natural father pass away?

MISS KENFORD: A year ago September. Is that right?

MISS GIBSON: September '87.

MISS KENFORD: September '87.

MRS. BLACK: Do you have any other brothers and sisters?

MISS KENFORD: No. I was an only child.

MRS. BLACK: What year did you meet the Gibson family?

MISS KENFORD: The year? I was 18.

MRS. BLACK: How old are you now?

MR. GIBSON: Take 18 from 45.

MISS KENFORD: 45.

MRS. BLACK: Okay. Thank you very much.

MR. CHAIRMAN: Any other questions from committee members?

Mrs. Gagnon.

MRS. GAGNON: Thank you. A question, I guess, to Mr. Gibson: does your son in Lloydminster have any objections to this legal adoption, since it may impact on the inheritance aspect of your situation?

MR. GIBSON: Are you asking me?

MRS. GAGNON: Yes, please.

MR. GIBSON: Would you repeat that? I'm a little hard of hearing.

MRS. GAGNON: I said: does the son in Lloydminster agree with this adoption, or does he see any impact on him as far as inheritance?

MR. GIBSON: As I get it, you asked: does the rest of the fam-

ily agree? The answer is yes.

MR. CHAIRMAN: Seeing no additional questions, perhaps you'd like to sum up, Mr. Henderson.

MR. HENDERSON: I would only ask one question of all three: basically if they agree with my statements. Miss Kenford, having been sworn in and having heard my summations, do you agree with them?

MISS KENFORD: Yes.

MR. HENDERSON: Do you adopt them as your own statements?

MISS KENFORD: Yes.

MR. HENDERSON: Thank you.  
Mr. Gibson?

MR. GIBSON: I agree.

MR. HENDERSON: Miss Gibson?

MISS GIBSON: Yes.

MR. HENDERSON: Thank you. Those would my only submissions.

MR. CHAIRMAN: Well, thank you very much for your presentation. We'll be back to you as soon as we possibly can. Thank you.

That's the agenda for this morning, ladies and gentlemen. Could we have a motion to adjourn? Thank you, Marie Laing. All in favour. Anyone opposed? That's carried.

[The committee adjourned at 11:20 a.m.]