





argue the significance of patent ambiguity, precludes us from expressing an opinion about the possible applicability of that case.

■ ■ II. The appellant next argues that the decree is inconsistent with RSA 170-B:20, I, II, III, and IV, which provide that with respect to rights, duties, and inheritance an adopted child shall be treated as a natural child of the adopting parent. These sections of the statute do not, however, limit rights of an adopted child to benefit under a will or trust. Only RSA 170-B:20, V arguably does that, by its provision that in "the absence of specific language to the contrary, an adopted child shall be considered the same as a natural child, issue or heir of the body." Although the appellant's brief seems to allude to this statutory language at one point, it was passing reference at best, and it appears from the record before us that the appellant was no more specific in the trial court. In argument before us he did not refer to paragraph V at all. Thus, it is doubtful that the applicability of paragraph V was adequately raised below, and it is clear in any case that a passing reference, ignored in argument, does not preserve an issue on appeal. *D. W. Clark Road Equip., Inc. v. Murray Walter, Inc.*, 124 N.H. 281, 285, 469 A.2d 1326, 1329 (1983); see *State v. Bass*, 93 N.H. 172, 177, 37 A.2d 7, 11, cert. denied, 322 U.S. 763 (1944).

III. The appellant's third claim is that the trial court erroneously received and relied upon the unsworn testimony of an income beneficiary who appeared *pro se*, and a factual representation offered by counsel for another such beneficiary. The appellant failed to object to such testimony, however, see N.H. R. Ev. 103(b)(1), and may not object to it for the first time here. *Daboul v. Town of Hampton*, 124 N.H. 307, 309, 471 A.2d 1148, 1149 (1983).

■ IV. Finally, the adopted children cross-appeal the probate court's denial of their request for counsel fees at the expense of the trust. They claim that the question of their entitlement stymied the trust administration, the trustee having failed either to seek instructions or to distribute income. If true, it would not have been error for the court to allow counsel fees. See *Concord Nat. Bank v. Haverhill*, 101 N.H. 416, 419, 145 A.2d 61, 63 (1958). The court made no findings relevant to this issue, however, and the record is silent. Because the award of fees would have been discretionary in any case, *id.*, we cannot infer error on such a record.

*Affirmed.*