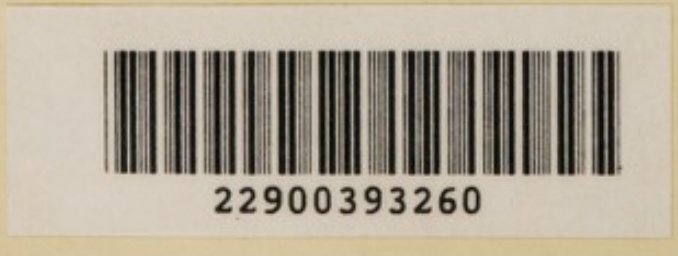
Report of the departmental committee on the adoption of children.

HOME OFFICE
SCOTTISH HOME DEPARTMENT

Report of the Departmental Committee on the Adoption of Children

Presented to Parliament by the Secretary of State for the Home Department and the Secretary of State for Scotland by Command of Her Majesty September 1954

LONDON
HER MAJESTY'S STATIONERY OFFICE
THREE SHILLINGS NET



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WARRANT OF APPOINTMENT

WE HEREBY APPOINT:—

His Honour Sir Gerald Hurst, Q.C., T.D.,

The Hon. Mrs. M. E. Edwards,

Mr. J. G. Harris,

Mrs. L. Hopkin,

Mr. S. G. Kermack,

Dr. Doris Odlum,

Mr. H. H. C. Prestige, C.B.E.,

Mrs. Madeleine J. Robinson,

Mr. H. M. Rowe, O.B.E.,

to be a Committee to consider the present law relating to the adoption of children and to report whether any and, if so, what changes in policy or procedure are desirable in the interests of the welfare of children.

AND WE FURTHER APPOINT His Honour Sir Gerald Hurst to be Chairman and Miss J. M. Northover of the Home Office to be Secretary of the Committee.

(Signed) DAVID MAXWELL FYFE.

(Signed) JAMES STUART.

26th January, 1953.

Note.—The estimated cost of the preparation of this Report is £915 14s. 5d. of which £299 represents the estimated cost of printing and publication.

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REPORT OF THE DEPARTMENTAL COMMITTEE ON THE ADOPTION OF CHILDREN

To The Rt. Hon. SIR DAVID MAXWELL FYFE, G.C.V.O., Q.C., M.P., Secretary of State for the Home Department and Minister for Welsh Affairs and

The Rt. Hon. JAMES STUART, M.V.O., M.C., M.P., Secretary of State for Scotland.

PART I

INTRODUCTION

1. We were appointed on the 26th January, 1953, to consider the present law relating to the adoption of children and to report whether any and, if so, what changes in policy or procedure are desirable in the interests of the welfare of children.

2. We have interpreted these wide terms of reference as an instruction to review the whole field of the law and practice relating to legal adoption, and also the provisions at present contained in Part III of the Adoption Act, 1950, regarding certain children adopted *de facto*.

3. We have held 35 meetings, all in private. At 19 of our meetings we have heard oral evidence, and we have also received a considerable amount of written evidence. A list of sources of evidence is set out in Appendix I.

4. We think it right to emphasise three points at the very outset:

(i) The selection of the right substitute home for any particular child is an individual matter which can be governed by few universal rules. It depends ultimately upon the judgment formed by individuals of the personalities and motives of the would-be adopters and of the personality, or frequently the potentialities, of the particular child: and these judgments are liable to be swayed by emotion.

(ii) Owing to the variety of circumstances in which adoption may take place, we have had to discard a number of attractive suggestions, each of which would be excellent if it could be applied only to a particular category and in particular circumstances. In our view the procedure should be as simple as is consistent with safeguarding the interests of the child, and as uniform as practicable, not overlaid with numerous exceptions or provisions for special situations which in practice may very seldom arise.

(iii) Our recommendations are interdependent and are intended to be read as a whole, forming a balanced system, and not as individual and isolated ideas.

5. In order to avoid confusion, we have tried to distinguish between legal adoption and *de facto* adoption by differentiating between them when either might be meant. Throughout the report the word "adoption" used alone means legal adoption.

6. The child in respect of whom an adoption order is going to be, or has been, made is referred to throughout this Report as "he" in order to avoid the reiteration of "he or she". This serves also to identify the pronouns in the many sentences which allude to the child's mother as well as to the child.

7. The use of the word "parent" has been limited in this Report to the original parents of a legitimate or legitimated child and not applied to

the adoptive parents, who are generally referred to as the "applicants" or as the "adopters". Where the word "parent" is used in relation to an illegitimate child, it refers to the mother only. The words "father" and "mother" are always used in the biological sense.

8. As it is frequently necessary to make distinctions in regard to Scotland, where the legal system differs from that in England and Wales, we have thought it more convenient to avoid the clumsy and sometimes ambiguous phrase "England and Wales or Scotland" by using the expression "England" to include both England and Wales. This does not mean, however, that we have ignored any problems peculiar to Wales.

9. For the sake of brevity we have referred to the Adoption Act, 1950, as "the Act", and to the Adoption of Children (County Court) Rules, 1952, and the Adoption of Children (Summary Jurisdiction) Rules, 1949, as amended by the Adoption of Children (Summary Jurisdiction) Rules, 1952, as "the Rules".

10. References to guardian ad litem are intended to include curator ad litem.

THE BACKGROUND OF ADOPTION LAW

11. Though legal adoption is comparatively in its infancy in this country, adoption itself is no new thing. For generations it has been customary for some people to take into their family and bring up other people's children through a desire to help relatives or friends who could not look after their own children. In Scotland particularly this informal type of adoption represents a very old-established social custom.

12. During the first world war considerable publicity was given to the unhappy lot of many orphans of soldiers and of the alleged large numbers of "war babies". As a result several adoption societies were formed by charitably minded people who wished to do something to save the unwanted child from being thrust away into unsatisfactory surroundings. The nation owes a debt to these pioneers. As they gained experience they saw more and more the dangers and drawbacks of unorganised adoption. Even though a child might be placed in a suitable family and live happily, much distress might be caused to him. He was not legally a member of the family in which he had grown up. He could not get a birth certificate in the name by which he was known; perhaps no one could tell him his real name. Much anxiety might be caused to affectionate adopters who feared that, when their adopted child reached an age at which he or she could earn money, the natural parent would come and take the child away. Such an event was by no means unknown. In the same way the natural mother of the child had no real security, for she might at any time be called upon to resume responsibility for the child. As a result there grew up a demand for legal adoption.

13. A Committee under the chairmanship of Sir Alfred Hopkinson, K.C., was appointed in August, 1920, to consider the desirability of making legal provision for adoption and the form any such provision should take. In 1921, it reported (Cmd. 1254) in favour of provision being made for legal adoption; and a private member's Bill was introduced in 1922. This Bill reached the report stage, but had to be dropped on the dissolution of Parliament. In 1923 two Bills were introduced but both were dropped. Three Bills, including one relating to Scotland, were introduced in 1924; two of these reached a second reading and were then dropped. More attempts were made by private members in 1925, but in 1924, in view of the divergence of views expressed, a further Committee had been appointed

with Mr. Justice Tomlin as Chairman. This Committee reported (Cmd. 2401) in 1925 on that part of its terms of reference which related to the adoption of children, and in its second report (Cmd. 2469) submitted a draft Bill, which later formed the basis of the 1926 Act.

14. The 1926 Act was limited to England and Wales. Its provisions mainly related to the conditions in which adoption orders could be granted, including the consents required; jurisdiction of courts, and the appointment of a guardian of the infant ad litem; and the effects of an adoption order. Broadly speaking the effects of an adoption order were to deprive the natural parents of their rights and duties in regard to future custody, maintenance and education and to vest them in the adopters, and to enable an adopted person to obtain a birth certificate in the name by which he was known. A similar Act applicable to Scotland was passed in 1930.

15. In 1936 a Committee, under the chairmanship of Miss Florence Horsbrugh, M.P., was appointed to inquire into the methods of adoption societies and agencies. Its report (Cmd. 5499) made recommendations which resulted in the Adoption of Children (Regulation) Act, 1939. This Act, which applied to both England and Scotland, provided for the registration of adoption societies and for the making of regulations as to their conduct. It provided also for the supervision by local authorities of children placed through a third party for legal or *de facto* adoption, and it imposed certain other restrictions, including one on the transfer of children abroad. Owing to the outbreak of war in 1939, this Act was not brought into operation until 1943.

16. In 1949 a Bill containing important new provisions was introduced and became the Adoption of Children Act, 1949. One of the chief provisions of this Act was to require in every case a probationary period of three months under the supervision of the local authority immediately before an adoption order could be made. Such a probationary period had been recommended in 1947 by a committee set up by the National Council of Social Service under the chairmanship of the late Judge Gamon, and was already required in the case of children placed by adoption societies. In addition, the 1949 Act altered the effects of an adoption order so that in England, apart from specific bequests, the adopted child should inherit as a member of his adoptive family and not of his natural family; it enabled an application for an adoption order to be made without the natural parents knowing the adopters' identity; it permitted the adoption of a foreign child who, if adopted by a citizen of the United Kingdom and Colonies, thereupon himself became such a citizen; it revised the provisions relating to consents to adoption and dispensing with such consents, and imposed a new requirement that a document signifying the consent of the mother of the child must be signed before a Justice of the Peace and not until the child is six weeks old. It also introduced a series of provisions regarding the form of adoption orders and the entries in the Adopted Children Register maintained by the Registrar General, including one for the determination, in cases of uncertainty, of the probable date of the child's birth. These changes, and the new outlook on adoption which they reflected, involved substantial changes in procedure and the Rules hitherto in force were replaced or amended.

17. In 1950 the four Acts dealing with adoption were consolidated and advantage was then taken of the procedure authorised by the Consolidation of Enactments (Procedure) Act, 1949, which enables the introduction of "minor improvements" in a consolidation Bill, to provide that an adoption order made in England or Scotland should be equally effective in both

countries. There is now one Act applying throughout Great Britain, albeit with certain modifications to conform with Scots law, of which the chief is that in Scotland an adopted child continues to inherit from his natural parents (and they from him). The Mackintosh Committee on the Law of Succession, which reported (Cmd. 8144) in 1951, recommended that on the making of some other changes in the law of succession this position should be altered so as to bring the law in Scotland into line with that in England. We share wholeheartedly the view of the great majority of Scottish witnesses that this recommendation is right and of urgent importance. We hope that it will soon be possible to put it into effect, by *ad hoc* legislation if there is no prospect of early revision of the whole law of succession in Scotland.

18. There are certain other differences between English and Scottish adoption law, including a number concerned with procedure, and we later recommend alterations in respect of some of them in order to achieve the greatest possible uniformity.

GENERAL

19. The number of adoption orders granted in England and Wales rose steadily from just under 3,000 in 1927 to a peak of over 21,000 in 1946, after which the number fell and now averages about 14,000 annually. Similarly, in Scotland the number rose from 347 in 1931 to a peak of 2,292 in 1946 and now averages about 1,500. Detailed figures are given in Appendix II. There is no doubt that during the last thirty years or so the idea of legal adoption has evolved into something very different from what it was originally. It has gained a much greater importance in our social life than was expected in 1925, when the Tomlin Committee reported. That Committee believed that the number of people wishing "to get rid of children by way of adoption" was greater than the number of people wishing to adopt. This may have been so then, but in fact for some years now it has been apparent that the number of couples who desire to adopt children is far greater than the number of children readily available at any one time. No doubt this increased interest is due partly to the natural desire of childless couples to have children, which has been reinforced by the possibility of legal adoption, and partly to the greater awareness of the plight of children deprived of a normal home life, to which much publicity has been given in recent years. Not all such children, however, are available for adoption. The majority of those in local authorities' homes or voluntary homes have parents to whom it is hoped that they will ultimately return, but for those who are available there can be no doubt that adoption is generally a much more satisfactory solution than any form of institutional care or even fostering. The legal relationship which it creates means (or should mean) that a child who cannot be brought up by his natural parents can have the security and rights of a child in a normal family, with full opportunity for proper development physically, mentally and spiritually. The primary object at which all should aim in the arrangement of adoptions is the welfare of the child, and adoption should therefore be approached as a means of finding the right home for a child rather than of satisfying would-be adopters. In the interests of children the aim should be to protect the three parties concerned—children, natural parents, and adopters—from risks which may lead to unhappiness. The children must be protected from unnecessary separation from natural parents who, with adequate help and guidance, could provide security and love in their own home. They must be protected from adoption by people who are unsuited to the responsibility of bringing them up or want a child for a wrong motive. When

they have settled satisfactorily in their adoptive home they must not be interfered with. The natural parents must be protected from hurried or panic decisions to give up their children and from being persuaded to place them unsuitably. The adopters must be protected from undertaking responsibilities for which they are not fitted or which they have not appreciated, and from interference after a child has been legally transferred to them.

20. The interests of the child are not well served, nor are the natural parents or the adopters safeguarded as they should be, unless great care is taken in placing the child. This is the crucial stage in the process of adoption since, once the child has been placed, much harm and unhappiness may result if a change has to be made. Our investigations have shown us that, unfortunately, even the more recent provisions of adoption law (which some may think over-elaborate) do not always afford a sufficient protection to those concerned, and that the difficulties of devising further safeguards are very great. We deal elsewhere with the risks inherent in "third party" and "direct" adoptions and make recommendations for minimising them; although no statistical evidence is available, it seems reasonable to assume that adoptions arranged by persons of special experience and training stand a much greater chance of success.

21. We have heard that some local authorities and adoption societies are chary of placing children who are not completely healthy in every way, and even that some courts decline to grant an adoption order in respect of such a child. It is wrong to suppose that only the robustly healthy and highly intelligent are suitable for adoption and that any below this standard should be denied the opportunity. It is probably much nearer the truth to say that almost any child is adoptable, or with care can become so. We cordially endorse the views expressed in a letter to "The Times" which appeared while our report was in draft:—

> "Some social workers hesitate to recommend for adoption any children but those whose heredity and background will bear close scrutiny, whereas the truth is that no child, whatever his origin, can be guaranteed to fulfil the hopes and aspirations of his parents. If the adopting parents are themselves suitable, and if all the known facts about the baby have been set before them and they are prepared to accept him, let the adoption go forward. All parenthood involves taking a risk."

There should be no discouragement of the adoption of handicapped children, for there are, happily, still people who will accept the extra burdens which a handicapped child may entail, and take an even greater pride and joy in bringing up such a child successfully than others take in rearing a more fortunate child. What is of the greatest importance, however, is that the adopters should know all that can be told them about the physical and mental health of the child for whom they are assuming responsibility and should appreciate the difficulties which may arise. All who adopt children at a young age, whether the child is apparently healthy or not, should be warned that his mental and physical development cannot be predicted or assessed beyond the possibility of doubt, even by the most expert. We have heard of a number of sad cases where adopters have turned against a child they had adopted because he did not develop as they had hoped. Their distress and disappointment excite the greatest sympathy, but there can be no question of annulling the adoption. Adopters, who have voluntarily assumed the responsibilities of natural parents, must not expect to be able to give them back again at will, any more than they could relieve themselves of their responsibilities if the child had been born to them.

22. Those who have adopted a child may feel some sense of achievement when the adoption order has been made. Nevertheless, in spite of the practice of most adoption courts of emphasising the necessity of telling the child he is adopted, it is still far too common for adopters to try to conceal the fact of adoption, both from the child and from the rest of the community. No doubt in many cases this is because they feel in some way humiliated by the fact that they have not been able to have a child of their own, and it is necessary to make full allowance for this when trying to persuade them to tell the child of his adoption. In order to overcome this reluctance they should understand clearly that they may seriously jeopardise the child's emotional development and future happiness by withholding this knowledge from him. Adopters may also be helped by realising that to take a child into their home is essentially praiseworthy and that everybody will respect them for so doing. It is futile to suppose that the arrival of a child will escape comment by relatives, friends and neighbours. Even where the family moves away to a distance, repeated experience shows that it is almost inevitable that from one source or another the child will come to know that he is adopted. For instance, the fact can hardly be concealed when a birth certificate is required for school or some examination, or on entering a profession or one of the services. We have been told of tragic cases where the child has learned the truth suddenly from strangers with disastrous psychological effects. In some cases children, especially in adolescence, have become mentally unbalanced from the shock. We were much impressed by the evidence we received about the great importance of the child being brought up from his earliest years to know he is adopted. This is not a matter which can easily be put right by legislation, but since we have been concerned not only to ensure that the law of adoption works smoothly but also to see, as far as possible, that its results are good, we have given much thought to this question, and have made recommendations designed to improve matters in this respect.

23. Having regard to the terms of reference of this Committee, it is inevitable that much of the evidence given to us has been directed to defects or alleged defects in law, practice and procedure, and to cases where adoptions have been found open to criticism. As a result, this Report and our recommendations are mainly concerned with these topics. This does not, however, imply that we think that the majority of adoptions since 1926 have not been successful. We are satisfied that, in spite of various shortcomings in law and administration and of the fallibility of human judgment, the general result of legalised adoption has been to increase immeasurably the happiness and well-being of probably over a million members of the community. Finally, we are convinced that the way to further improvements in practice is through more study of the results of adoption. Courts dealing with adoption cannot, of course, follow up their cases, except when they have the experience, happily quite common, of seeing adopters who apply to adopt further children. We are glad to be able to record that at least one local authority, and a few voluntary bodies, have undertaken research either by systematically keeping in touch with adoptive parents, or by other means which are open to them. We are assured that co-operation can be obtained for this type of enquiry without endangering the security of the child in his new home and we therefore hope that there will be an extension of this valuable work and that (as far as possible) its results will be published. In the absence of such material it is difficult to assess the need for further regulation and since the consequences of added restrictions may well outweigh their advantages we have felt unable, at the present stage of our knowledge, to recommend the far-reaching changes in the law which some witnesses have advocated.

PART II

MAIN RECOMMENDATIONS

1. THE ARRANGEMENT OF ADOPTIONS

LOCAL AUTHORITIES

24. Divergent views are held as to whether local authorities are entitled to arrange adoptions of children other than those who are in their care. Section 43 (1) of the Act empowers local authorities, "in connection with their functions under any enactment relating to children, to make and participate in arrangements for the adoption of children". While many local authorities have regarded their power to arrange adoptions as limited to children who are in their care, we have been told that a few authorities, presumably acting on a different interpretation of the law, place relatively large numbers of children for adoption without necessarily receiving them into their care. It is plainly desirable that legislation should leave no room for doubt on this point. If local authorities can arrange only for adoptions of children in their care, they are unable to give any help in arranging an adoption unless the conditions for receiving the child into care under the Children Act are fulfilled ; there are certain types of case, e.g., the children of mothers accommodated in local authority welfare homes, where this is particularly unfortunate. Local authority witnesses have submitted that their power should be extended. While we have no wish to see local authorities usurp (and we do not think that local authorities intend to usurp) the function of voluntary adoption societies, we have been impressed by the fact that it is clearly impossible for the small number of societies now in existence to cover the needs of the whole country. We have considered the opinion expressed by some witnesses that local authorities should never arrange adoptions themselves because they ought to be free to exercise an independent supervision over all adoptions which take place in the area. But though such complete independence may have advantages in theory, it is hardly practicable at the present time ; and in fact we see little risk in permitting local authorities to supervise children whom they have placed, so long as a really independent guardian ad litem is appointed. Local authorities employ a high proportion of trained workers and we have had evidence that some of these carry out a substantial number of adoption arrangements with great skill and care. We therefore *recommend* that local authorities should be specifically empowered to arrange, if they wish, for the adoption of any child for whom adoption is sought, without the necessity of receiving the child into care under the Children Act.

25. At the same time, we wish to record that we have had evidence to show that some local authorities allow their Children's Officers to accept a child for adoption and arrange for his placing entirely on their own responsibility, without consultation with any committee. The same officer, or a member of his staff, acts as superviser during the probationary period, and sometimes he even acts as guardian ad litem as well. We deal with the question of the guardian ad litem in paragraphs 70 to 79 ; but we wish to say at once that the state of affairs described is at variance with our recommendations. We think that the principle of consideration by a case committee, which is laid down in the present Adoption Societies Regulations, is the right one and we *recommend* that something of the sort should be required as part of the normal procedure of a local authority. We understand that the objection is sometimes raised that adoption is too confidential a matter to be handled by a committee. We think there is no substance in this objection. We are sure that the case committee of any local authority would use the

same discretion in regard to the confidential papers they would see relating to adoption matters as they do in any other personal matters, and the authority could see that the personal reports referred to people by initials or other symbols only.

26. In addition to the requirement to consult with a special case committee, we think it would be reasonable, and we *recommend*, that local authorities should be subject to the other statutory requirements which apply to adoption societies. We hope also that local authorities arranging adoptions would give very careful attention to the mother's side of the matter. Any mother who applied to the local authority for assistance in getting her child adopted should be assured of help, if help were needed, in making up her mind whether adoption was the right solution, and should have the possible alternatives sympathetically and impartially laid before her.

27. We have received evidence that some local authorities place children for adoption outside their own areas without first asking the authorities in whose areas they place them for any information they may have about the adoptive homes. It has also been stated that a local authority which places a child in another area sometimes fails either to visit the child or to arrange for the other authority to do so. We hope that these criticisms are only true in isolated instances; but in order to ensure that no child is placed for adoption in a home which is known to be unsuitable, we *recommend* that a local authority proposing to place a child in the area of another local authority should be required to enquire whether the records of that authority disclose any reason why a child should not be placed in the home. This may elicit information (e.g., as to health or local reputation) not easily obtainable by the placing authority. If no adverse report is received within 14 days, it would seem safe to assume that no objection is known, but as a further precaution the placing authority should notify the other authority immediately the child has been placed. In paragraph 37 we are making a similar recommendation in respect of placings proposed to be made by adoption societies.

28. It appears to us necessary for a local authority to be able to withdraw a child it has placed if for any reason it thinks it right to do so, and we accordingly *recommend* that section 27, amended as we suggest in paragraph 41, should apply to local authorities as well as to adoption societies.

ADOPTION SOCIETIES

29. At present there are between 60 and 70 registered adoption societies in England and Scotland. It should be borne in mind that they are not all of the same type and it may be convenient to regard them as falling into three groups.

30. First, those which are simply introducing agencies, existing in order to bring together the adopters who are seeking a child and the child who has been offered for adoption. There are several societies of this kind, operating either throughout Great Britain or over a wide area of it. Many of them are old-established, having been founded before the first Adoption of Children Act, and in the main they limit their work to the acceptance and placing of children and do not include much of the social work with the mother which is nowadays coming to be regarded as of the greatest importance, in the interests of the child as well as of the mother.

31. The second group of adoption societies comprises those which run children's homes. They include the best known large national organisations and some quite small local or denominational societies. At one time they arranged adoptions only for children who had already come under their care,

but with the growing recognition of adoption as providing, for most children, a more satisfactory life than institutional care, these societies are now willing to accept and place children specifically for adoption. In general they refrain from placing children at a very early age. They are, of course, in the happy position of being able to relieve the mother by taking over the child as soon as she is unable to care for him, and they are not faced with any difficulty about the immediate care of the child if the adoption arrangements break down.

32. The third group of societies consists of the moral welfare associations, which are closely allied to the second in their methods, but deal particularly with the unmarried mother, and are interested not only in the effects of adoption on the child but in its effects on the rehabilitation of the mother.

33. We are aware that individual societies make rules for their own guidance, e.g., some societies do not place children with would-be adopters who already have children of their own. It must be realised that such rules do not represent statutory prohibitions, and that the same rules do not apply in all societies. We do not recommend any interference with the discretion of societies to make their own decisions in matters of this kind.

34. We have heard evidence from societies of all types, and are greatly impressed with the value of the work they do. We are satisfied that the arrangements they make are carried out with great care, within the limits of the type of work undertaken. We have heard also criticism of the work of societies; and various bodies, including some of the societies themselves, have suggested certain means by which improvement could be achieved.

35. The criticisms which appear to us to be most valid relate to the amount of care taken in placing the child. It has been pointed out by several organisations that a society of the introducing type, which may accept a child from Land's End and place him with adopters at John O' Groats, has not the facilities, and indeed does not attempt, to arrange for the adopters to be visited by its own worker (except when their home is comparatively near the society's office) and therefore cannot effectively "match" the child and the adopters. We appreciate the value of the same worker being able to see and know the child, the parents, and the adopters, in their home surroundings, when considering whether to propose a particular placing; and we think that societies which arrange accordingly are to be preferred.

36. A second major criticism which bears on the work of placing and has been voiced by many witnesses is that most societies do not employ trained workers. It has also been pointed out by local authorities (who are the registration authorities for the purposes of section 23 of the Act) that the Act, which allows the registration authority to cancel registration on the ground that insufficient competent workers are employed by the society, fails to define the word "competent". It is clear that the staffs of many societies have not received any formal training, but we are nevertheless aware that some "untrained" workers have had experience which renders them highly skilled. It may be mentioned in passing that the methods of those who have academic qualifications have also sometimes been criticised. The crux of the matter seems to be that both training and experience, including a wide experience of normal homes, are required by the ideal adoption worker, and even these are not enough if the person concerned is not temperamentally suited to the work. We think that adoption societies should aim at employing trained workers, and that where this is impossible efforts should be made to co-operate with case-work agencies

which do. In particular, adoption societies which do not concern themselves with the mother of the child should be ready to consult with other bodies which deal with this aspect of the matter. It is of vital importance to establish before the child is placed that the mother is not seeking adoption merely as a means of overcoming present difficulties, but understands what it means to part with her child and has really made up her mind that she wants the child to be adopted.

37. In order to ensure that children placed by an adoption society are as fully protected as children placed by a local authority, we *recommend* that an adoption society should be required to carry out a procedure similar to that recommended in paragraph 27 for local authorities placing children outside their own areas.

38. We do not feel able to make any recommendation with regard to the field of operation of adoption societies and their carrying out of visits, or to the employment of trained workers, because it is clear to us from the evidence we have received that most societies are financially unable to carry any further burdens. The effect of such recommendations, if put into effect, would be to close down a number, perhaps a considerable number, of societies ; and we think that such a result would be regrettable.

39. A few of the adoption societies which gave evidence before us submitted that they should be empowered to make a fixed charge for their services: others said that they would not welcome such a provision, and expressed the view that it would in any event not provide a sufficiently substantial and regular source of revenue. We do not think that a fixed charge would be appropriate ; and we do not recommend that societies should be allowed to charge a fee. Section 37 (4) (*a*) of the Act already enables them to apply to the court to sanction the repayment of their reasonable expenses. We revert to this point in paragraphs 231 to 236.

40. It has been suggested that local authorities should give adoption societies more encouragement in the shape of regular contributions under section 46 (2) of the Children Act, 1948, which enables a local authority, with the consent of the Secretary of State, to make contributions to any voluntary organisation whose object or primary object is to promote the welfare of children. There must be many cases where an adoption arranged by a society prevents a child from coming into the care of a local authority and so being, for however short a time, but possibly for several years, a burden on the rates. Further, it seems that many registration authorities take little or no interest in the work of the societies registered with them, and make little use of the information which the Adoption Societies Regulations require to be annually furnished to them. We consider that a greater interest should be taken and closer touch should be kept by the registration authorities, and that this extended interest might well be coupled with regular financial assistance. In particular, we suggest that, with a view to assisting in the provision of better qualified workers, local authorities should consider making special contributions towards the expenses of those adoption societies which employ trained workers.

41. We have had our attention drawn to some of the provisions of the Act relating to adoption societies which appear to be anomalous or unsatisfactory. The chief of these is contained in subsections (2) and (3) of section 27 which provide that when a child is placed by an adoption society the prospective adopters are allowed nine months, and no more, in which they must make up their minds whether or not they wish to adopt the child, and lodge their application with the court. No such limit exists in other cases. We have had much evidence to suggest that in a number of cases a period

longer than nine months is needed before the adopters can be sure that they will be right to adopt the child, and we think it deplorable that anyone should be hurried into a decision in such a vital matter. In any event, the provision is capable of evasion by the simple means of the society notionally receiving the child back and then placing him again in the same home. We therefore *recommend* that subsection (3) of section 27 should be repealed and that subsection (2), which provides for the adopter to return the child or for the society to withdraw him within the first three months after he has been placed, should be amended to allow withdrawal by either side at any time before an order is made. The society will then be able to remove the child from prospective adopters who prove dilatory in applying for an adoption order, or who prove unsuitable for other reasons, whenever they think it proper to do so. As we have stated in paragraph 28, this new provision should apply also to placings by local authorities. It would need the sanction of power for the appropriate court to deal with any refusal to comply.

42. We have considered a number of other suggestions with regard to adoption societies, including amendments of the Adoption Societies Regulations, 1943, and recommendations with regard to these are contained in Part III.

THIRD PARTY AND "DIRECT" PLACINGS

43. Almost all the witnesses we have examined, including those most experienced in the actual work of arranging adoptions and those particularly concerned with the welfare of unmarried mothers, have stressed the undesirability of third party adoptions—that is, those in which the mother places her child with prospective adopters through the agency of a private individual acting as a go-between. Our attention has been drawn to a number of cases where a mother has been induced to part with her child to people who are grossly unsuitable to care for him. Sometimes this is done by well-meaning persons who wish to help the mother to relieve herself of a burden which they think she will be unable to manage; sometimes the arrangement is made almost entirely for the benefit of the proposed adopters, who may have been seeking a child for a long time, or have lost one of their own. Whether the third party acts chiefly for the benefit of the mother or of the adopters the interests of the child do not usually receive much, if any, consideration; for although some third parties may be entirely benevolent in their intentions they are very seldom qualified to make the skilled enquiries which careful matching requires. In this category there are the deplorable cases in which a doctor acts as third party for the benefit of a patient whose neurotic condition he seeks to remedy or whose marriage he hopes to stabilise by this means. Although we do not suggest that it is typical of the attitude of doctors, we quote from a letter from a doctor to a voluntary worker which was submitted to us:—

> "I wonder if you can help me with this unfortunate woman and her husband? They both want another child—the first being now 8—and he has proved impotent while she has not 'taken' after three attempts at Artificial Insemination (Donor).
>
> Some time ago they had an adopted child 'on appro' but Miss ..... decided they were not suitable to keep it.
>
> Mrs. X tells me that her husband threatens to leave her unless another baby is forthcoming, and adoption is the only way. I feel myself that, although the home is not ideal, a baby might go a long way to settle down the whole family and without itself suffering in the process.
>
> With such a brisk seasonal trade in 'illegits' I feel one might perhaps be spared!"

44. We have also been given examples of cases in which an ostensibly "direct" placing has been made by the mother. That is to say, she has placed the child with someone who is a friend of a friend of hers and to whom she was introduced merely for the purpose of handing over the child. In such circumstances the third party does not usually admit that he has taken part in the arrangements, or, no doubt through ignorance, does not notify the placing to the local authority as required by section 31 of the Act. Some of these direct or semi-direct placements are wholly unsuitable, and their prohibition has been urged upon us by many witnesses; others have advocated granting a power of veto to the local authority if, after notification, the home does not come up to their standard. It was generally agreed that, if evasion were to be prevented, such a power of veto would have to cover all placings with persons other than relatives, even where adoption was not contemplated. While we have great respect for the motives underlying such proposals, we doubt whether their advocates appreciate either the complexity of the problem or the extent of the interference with individual liberty which their suggestions would entail.

45. We have had to bear in mind that over the whole country only about one quarter of the adoption orders made are in respect of adoptions arranged by societies or local authorities. We regret that no exact statistics are available, but even after allowing for those cases where the child is adopted by a father, mother or a relative there is no doubt that more than one-third of the adoption orders made annually are in respect of children placed outside their own families either direct or by third parties. While this large figure includes the kind of placing which is to be deprecated, it includes also many personal arrangements prompted by neighbourly goodwill and often by genuine affection for the child and his family. Again no exact information is available, but courts are familiar with applicants who are friends of the mother, fellow-workers or landladies who have developed an affection for a child entrusted to their care. Such people, although their income may be small and their housing conditions cramped, are prompted by the highest motives and are prepared to accept the child as he is and incorporate him into their family although they would never have set out to seek a child for adoption in the ordinary way. Again, some adopters have set their heart on a particular child, rather than on a child selected for them by others, however competent. The reasons for their choice may defy analysis, but nevertheless seem to them compelling and may cause them to accept the child more completely "for better, for worse", just because he is their own choice.

46. In the present state of our knowledge it would not be right to fetter all this goodwill. No careful research into the comparative results of adoptions carried out through the agency of adoption societies, local authorities or third parties or arranged direct has, so far as we know, been undertaken and, in the absence of reliable data, no conclusion as to the relative value of these methods can be drawn. We believe that any restrictions on third party and direct placings could and would be evaded and that such placings would continue but adoption orders would not be applied for in those cases. Prohibition of such placings would increase *de facto* adoptions.

47. For all these reasons we do not think it wise or practicable to prohibit either direct or third party placings.

48. We think, however, that third parties should accept responsibility for their actions. We accordingly *recommend* that all third parties be made respondents to the application. They will then be served with notice of

the application, and be interviewed by the guardian ad litem; they may also be required to attend the hearing. In order to assist the guardian ad litem in tracing any persons who may have acted as a third party, we *recommend* that the form of consent should include a statement by the parent of how he or she heard of the adopters.

49. We have been assured, and can readily believe, that the seven days' notice which section 31 of the Act now requires a third party to give is insufficient to enable the local authority to investigate the suitability of the home and may not even suffice for one preliminary visit to be made. We therefore *recommend* that the period be extended to fourteen days.

50. Witnesses have informed us that they have no doubt that in many cases third parties fail to notify, though naturally there are no statistics of the proportion of placings which are not notified. We therefore *recommend* that any person (except a guardian or relative as defined in the Act) who is about to receive a child, except from a local authority or an adoption society, with a view to legal or *de facto* adoption should be required to give fourteen days' notice to the local authority of the area in which he lives. This notice should include the name and sex of the child, the date and place of his birth, and the names and addresses of the child's parents, if known, and of the person or body from whom the child is to be obtained.

51. Failure of third parties to notify placings may well be due to ignorance of the law, particularly in instances where a person acts as third party for the first, and perhaps only, time in his life. We have heard that prosecutions under section 35 of the Act for failure to comply with section 31 are almost unknown and we *recommend* that the terms of the Act should be strengthened in such a way that its requirements can more easily be enforced. We hope that local authorities will take more active steps to ensure that the requirements of the law are widely known. One of the best methods of obtaining publicity is by prosecution, even in cases where only a nominal penalty is to be expected.

METHOD OF PLACING

52. Recent advances in medical knowledge have emphasised how quickly babies " grow roots ". The initial placing of a child for adoption is therefore even more important than the later investigation by the guardian ad litem. We have received much evidence, and from many different quarters, of the desirability of adoptions being arranged only by skilled workers. It was represented to us that only adoption societies and local authorities employing suitably trained and experienced workers should be permitted to arrange adoptions. In such circumstances, no arrangement for adoption would be made without a careful preliminary social survey of the adopters, including, in particular, an assessment of their motives for wanting to adopt a child. No child would be accepted for adoption without similar careful enquiry, by means of interviews, into the state of mind of the mother (or both parents, if a legitimate child were in question). The adopters would be visited by the same person who had placed the child, both during the probationary period and occasionally, if the adopters were willing, after the adoption order had been made. Help would be given when needed in dealing with the situation, of which so many adopters appear—unnecessarily and unfortunately—to be afraid, when the time came for telling the child he is adopted.

53. Although nothing can guarantee a perfect result, this care in placing the child provides the most hopeful method of ensuring success. We have

heard of placings which were glaringly unsuitable from the beginning, and several witnesses have told us that there is a disturbingly large proportion of adopted children presenting psychological difficulties of an order sufficiently grave for the children to find their way to the child guidance clinics or to schools for the maladjusted. Nevertheless, while we agree that it is better to prevent a bad placing than to have to remove a child from a home into which he may have settled, we have concluded, for the reasons discussed in paragraphs 44 to 46, that it is not at present desirable to recommend limiting the placing of children to particular agencies. We hope, however, that our recommendations with regard to third parties and the notification of direct placings will contribute to greater care being taken in the placing of children and to greater use being made of the facilities offered by local authorities and adoption societies as they become more widely known. If our proposals for widening the powers of local authorities are accepted and exercised it should be possible for all would-be adopters to seek a child through an adoption society or a local authority. Even if this involves waiting some months, they may find the delay has compensations, as some of the best societies and local authorities give valuable " ante-natal " advice during this time.

TRAINING OF WORKERS

54. We have emphasised that in our view there is no field of social work in which a combination of personality, training and experience is more necessary than in adoption work. On the other hand, far from recommending specialised training in adoption work, we are satisfied that the best adoption workers are people capable of a broad outlook, with general experience of normal homes and training in child care and family case work. We understand that in the three university one-year courses at present provided, leading to the Certificate of the Central Training Council in Child Care, adoption problems are given careful consideration in relation to other methods of care for children deprived of their natural home. We are also glad to know that the three months' non-residential practical work in this course includes supervised experience in adoption work. It is essential for good adoption work that reports shall be based on a sound understanding of the normal physical and mental development of children and of human relationships ; we understand that these form the essential subjects of these courses.

55. It is clearly desirable that workers in the specialised field of adoption should be qualified by means of courses of this kind. The Central Training Council provides also a series of residential refresher courses of about three weeks' duration, covering all aspects of child care, for the social workers employed in children's departments of local authorities and voluntary societies. In Scotland short refresher courses for such workers are arranged by the Scottish Home Department. Adoption workers who are unable to take the full course will find that even in these short courses consideration is given to problems relating to adoption.

AGE OF CHILD AT PLACING

56. It has been argued by a number of witnesses that the provision introduced by the 1949 Act, and now embodied in section 4 (3) (*a*) of the 1950 Act, to the effect that a document signifying the consent of a mother shall not be valid unless the infant is at least six weeks old when the consent is given, was intended to ensure that children below that age were not placed for adoption. Whether this is so or not, we found little disagreement with the view that it is preferable for a child not to be taken away from his mother before the age of six weeks. Most witnesses agreed that a mother

needs about six weeks to recover physically and psychologically from the effects of confinement, and that it would be wrong to alter the provisions relating to the date of consent. Many organisations, including those specially concerned with unmarried mothers, deplored the making of adoption arrangements before birth, since their experience has shown that a large number of mothers who before the birth decide on adoption change their minds completely when the child is born. A few witnesses expressed the opinion that where a mother has had skilled help to enable her to arrive at a firm decision an earlier placing may be advisable, and one medical organisation said that ante-natal arrangements could sometimes be successful. A few adoption societies told us that they prefer not to place the child until he is about three months old, the chief reason being that they consider that the child's future development can then be more easily assessed. On the whole, however, the consensus of opinion was that efforts should be made to settle the child into what is to be his permanent home by the time he is three months old, because after that age the disturbing effects of any uprooting are liable to be serious.

57. We do not think that it is practicable to prohibit the placing of a child for adoption before he is six weeks old, though we deprecate such early placing and we recommend below (paragraph 66) that the probationary period should not begin until that age. It is very desirable, however, both for the child's physical health and for the mother's psychological well-being, that there should be greater facilities for unmarried mothers to keep their children with them for up to three months after birth. We were glad to hear of local health authorities which provide homes for unmarried mothers with the objects of giving mothers more time for decision, of saving mothers who really want to keep their babies from being forced to part with them, and of ensuring that those who decide on adoption shall not place their babies too early. The proper use of such facilities depends, of course, on adequate advice and guidance being given to the mothers about the future of their children. We *recommend* that the central and local health authorities should give priority to the provision of more mother and baby homes for these purposes.

2. THE PROBATIONARY PERIOD AND SUPERVISION

58. The requirement in all cases of a probationary period of at least three months under the supervision of the "welfare authority" was perhaps the most far-reaching of the provisions introduced by the 1949 Act. (We regret that the 1939 Act introduced the use of the term "welfare authority" which has led to misunderstanding. We shall ourselves use the expression "local authority", and we *recommend* that it should be substituted in the Act.) The 1939 Act had provided for a probationary period in cases arranged by an adoption society, and for supervision of those arranged by third parties, and it was a great step forward for the child to be safeguarded in this way in all cases. We think that it is now generally recognised that a waiting period, during which it can be seen whether the child will settle with the adopters, and whether they will accept him as wholeheartedly as they should if they are to assume permanent parental responsibility for him, is necessary in all ordinary adoption cases. Indeed, the probationary period, though it may sometimes be irksome to the adopters, is as much a protection to them as it is to the child. Certain special circumstances, in which the requirements may be modified, are dealt with below: the paragraphs which immediately follow relate to the normal type of case.

59. The position of the local authority in adoption work is complicated. Quite apart from any adoptions which they arrange themselves, they are required by section 34 of the Act to supervise two categories of case:—

(*a*) where a child is placed for legal or *de facto* adoption through the agency of a third party, and Part III of the Act applies by virtue of subsection (1) of section 28 ;

(*b*) where notice of intention to apply for an adoption order is given in accordance with section 2 (6) (*b*) of the Act, and Part III of the Act applies by virtue of subsection (3) of section 28.

Some (according to one witness, most) of the cases originating in category (*a*) will at a later stage come into category (*b*). The duty of supervision described in section 34, however, is the same for both categories.

60. The local authority in the majority of areas is involved also by appointment to act as guardian ad litem in cases in category (*b*). The duties of the guardian ad litem are discussed in paragraphs 70 to 79 of this Report ; although they are somewhat akin to those of the supervising authority they are wider in scope, and the responsibility of the person who carries them out is to the court and not to the local authority. They should, of course, not be undertaken before an application has been lodged and the guardian ad litem of the particular child appointed. We have, however, had evidence that many local authorities who are aware that the courts always appoint them as guardian do not distinguish between the duties, and begin at a very early stage of their supervisory work to make enquiries which are the concern only of the guardian ad litem. Such confusion appears to arise from too wide an interpretation of their duties under section 34.

61. We have received from several sources copies of questionnaires sent to prospective adopters by local authorities when notification under section 2 (6) (*b*) is given. These documents show that those authorities are in the habit of making, long before the application has been lodged, comprehensive enquiries which properly relate to the work of guardian ad litem. We even heard of one supervising local authority which promptly asked the local police for a report on prospective applicants. We have also had a number of complaints that supervising visitors have taken upon themselves to advise prospective adopters to lose no time before lodging their application. Such excess of zeal is misplaced and can lead to serious embarrassment, for example, when an adoption society has placed a rather difficult child and has asked the prospective adopters to wait for two or three months or even longer before deciding whether they wish to adopt that child.

62. We think that it is very important to differentiate between the local authority's functions as supervising authority and its functions as guardian ad litem. The former arise whenever notice of intention to apply for an adoption order is received, and are analogous to the ordinary duties of a local authority under the " Child Life Protection " provisions of the Public Health Act, 1936 (or the corresponding enactments in Scotland and London), as extended by the Children Act, 1948, and are subject to inspection by the Home Office or Scottish Home Department. The latter do not arise until after an application for an adoption order has been lodged (and then only if the court appoints the authority as guardian) and are performed on behalf of the court, to whom the guardian is responsible ; these duties are not subject to inspection.

63. In fact, the provisions of Part III of the Adoption Act relating to the supervision of children placed by third parties (before any intention to apply for an adoption order has been notified, and indeed not necessarily

with any view to adoption) are not really appropriate to an Adoption Act. We *recommend*, therefore, that Part III should be repealed and that the children in categories (*a*) and (*b*) above, together with those who are notified by the prospective receivers of the child as being placed direct by the parent (see paragraph 50), and those in respect of whom notification is given by a local authority or an adoption society (see paragraphs 27 and 37) should, as soon as the appropriate notification has been, or should have been, received by the local authority, be deemed to be foster-children within the meaning of the "Child Life Protection" provisions. The effect of this will be that all children who are adopted *de facto* or are to be legally adopted or are fostered for reward will be supervised under the same statutory code. (In the case of a child boarded out by a local authority or voluntary organisation whose foster-parents give notice of their intention to apply for an adoption order in respect of him, it would be desirable that this code should apply to the exclusion of any other form of supervision by a local authority.) It appears to us that such a re-arrangement would do much to clarify what is at present a complex and not wholly satisfactory situation.

64. The supervising authority is, by the Rules in England, a respondent to the application. It appears that this is not sufficiently understood, perhaps because in the majority of cases the same department of the local authority acts also as guardian ad litem, and all the relevant material of the supervising authority's reports is embodied in the guardian's report. But in those cases where someone other than the local authority is appointed guardian ad litem there may not be such close co-operation; and indeed our attention has been drawn to cases in which there has been little or no consultation with the supervising authority, which has neither appeared at the hearing nor made a report to the court. We wish to emphasise that the statutory supervision is much reduced in value if the information obtained is not brought to the court's notice, and we *recommend* that in every case the supervising authority's report should be submitted to the court. In Scotland, we understand that the Acts of Sederunt governing procedure do not, except in the form of petition appended, lay down who are to be respondents to the petition. Scottish local authorities have submitted that they should invariably be respondents and we think that this is desirable. Courts would find the information those authorities can supply of great use to them.

65. We have had a considerable amount of evidence that co-operation between the various departments of local authorities interested in child welfare is not as complete as it should be. The consequence is that when children are placed for adoption they are supervised by officers of the Children's Department, but the circumstances may be unknown to the Health Department or to the Education Department as the case may be. The reason given for this by some witnesses is that it is thought that every aspect of adoption is confidential and must be known to as few people as possible. We can only suppose that such a misconception has gained currency because the guardian ad litem is required to treat his enquiries as confidential and the proceedings are conducted in private. The perfectly proper desire to protect the secret of an unmarried mother and the fact that arrangements can be made for the applicants' identity to be concealed, if they so wish, from the natural parents of the child seem to be no reason why the placing should be concealed from departments of the local authority which might be able to assist the Children's Department with information and the adopter with advice. However it has arisen, the effect of this idea can sometimes be contrary to the interests of the child and perhaps

of the adopters, who may well need the specialised help of the health visitor during the probationary period. We urge local authorities to ensure that all appropriate departments are notified of children placed in their area, and that there is full co-operation between them in the children's interests.

66. A number of witnesses advocated that the probationary period should be extended by periods of from one to three months. We have been impressed by the fact that three months has proved to be insufficient in a large number of cases, and by the plea that a certain time should always elapse between the date of receiving the child and the date of application for an adoption order. The idea of lodging an application the day after receiving the child has little to commend it, because it allows no time for the child and the adopters to get used to each other and for possible difficulties to be adjusted, and we *recommend* that in future it should not be permissible to lodge an application until two months after the child has come into the adopter's home. We further *recommend* that no period before the infant is six weeks old should count towards the probationary period for the purposes of section 2 (6) (*a*). We recommend later that the guardian ad litem should be appointed immediately the application has been lodged, and that the hearing should not take place for another six weeks. This will provide in practice a total probationary period of not less than three and a half months, and will mean that in the normal course an adoption order cannot be granted in respect of a child who is below the age of five months.

67. We now turn to the circumstances in which it has been suggested that the requirements relating to supervision need relaxing. In England and Wales in 1951 out of 14,198 adoption orders as many as 3,485 were made on joint applications by the mother and a stepfather in respect of illegitimate children and 945 in respect of legitimate children. A further 100 orders were granted to the mother applying alone. Thus a total of 4,530, representing nearly one-third of the orders made in the year, were on applications to which the mother was a party. Ninety-one children, of whom all but one were illegitimate, were adopted by the father and mother ; 38, of whom 31 were illegitimate, by the father and stepmother ; and 34, of whom all but one were illegitimate, by the father only. We have carefully considered whether any of these types of application in which a father or mother is concerned should be exempted from supervision ; in particular it has been represented to us that hardship is sometimes caused to the mother by her having to notify the local authority. But it appears that there must be wide differences in the circumstances and the suitability of these cases and we prefer to *recommend* that a parent (i.e. the mother of the child, or the father of a legitimate child) who is the applicant or one of the applicants should be entitled, without giving notice to the local authority, to lodge an application including a request for notification to be dispensed with. The court should have discretion to waive the requirement of notification and supervision in these circumstances.

68. There are three types of case in which supervision, having once begun, continues until the child's eighteenth birthday. One is when notification of intention to apply for an adoption order has been given but the applicants change their minds and never lodge an application. Another occurs when an application is lodged but subsequently withdrawn or allowed to lapse. The third type is when an adoption order is refused. It seems unreasonable for the local authority to be bound in all circumstances to continue to visit the home, and we *recommend* that they should be empowered to terminate supervision if they are satisfied that supervision is

no longer needed. Conversely, it should in justice be open to the "custodians" of the child to apply to the court for an order that supervision should cease. We envisage that they would have to show good cause why supervision was no longer necessary in the child's interests.

69. The only additions which we *recommend* to be made to the existing statutory provisions for automatic cessation of supervision are (1) when a child in respect of whom his father or mother has applied for an adoption order is legitimated *per subsequens matrimonium*, and (2) when a child ceases to live apart from his parents while he is still of school age.

3. THE GUARDIAN AD LITEM

70. The appointment of a guardian ad litem has been a part of adoption procedure ever since the 1926 Act, which provided for the court to appoint "some person or body to act as guardian ad litem of the infant upon the hearing of the application with the duty of safeguarding the interests of the infant before the court". The 1930 Act provided that in Scotland a person, not a body, should be appointed. The 1926 Act envisaged the possibility of the local authority being appointed and it provided for the court not only to authorise the authority to incur any necessary expenditure but also to direct out of which fund or rate such expenditure should be defrayed. On the advice of the Home Office, many courts in England adopted a practice of appointing the local authority, which until 1948 generally delegated the work to its Education Officer. Other courts appointed a Probation Officer; while yet others preferred to appoint private individuals who seemed to them fitted to carry out the task and were willing to undertake it.

71. After the Children Act came into force in 1948 the local authorities set up Children's Departments, and after the passing of the Adoption of Children Act, 1949, it was suggested in a memorandum of advice issued jointly by the Lord Chancellor and the Home Secretary to County Courts, Magistrates' Courts and local authorities in England that where a local authority was appointed guardian ad litem the Children's Officer was the appropriate officer to whom the duties should be delegated. We understand that most local authorities acted on this advice, with the consequence that the work is now mainly carried out by Children's Officers and their staffs except in the areas where the courts prefer to appoint Probation Officers or other persons.

72. Much evidence has been received about the duties of the guardian ad litem and the way they are performed. We have already drawn attention to one criticism in paragraphs 60 to 62.

73. We have been told that certain local authorities accept appointment as guardian ad litem in adoption cases in arranging which they have themselves participated or even taken the main part. This is contrary to the advice which had been given to courts and to local authorities by the Lord Chancellor and the Home Secretary, and it appears that many local authorities do not approve of the practice. We are informed, however, that some continue to act in such circumstances at the wish of the courts, notwithstanding that the Act stipulates that they may not be appointed without their consent. Nearly all the witnesses we heard were strongly of the opinion that the guardian ad litem should be able to report independently on the case, and we concur in their view that someone who has not been even remotely concerned in the placing of the child should be appointed. We *recommend* that the Act should expressly provide for this in England, and should make clear that where a local authority is responsible for placing a child no

officer of that authority may act as guardian ad litem. In principle, this provision should be extended to Scotland, but we understand that this would be impracticable at present.

74. Several witnesses expressed the view that the appointment of the local authority, being a body of persons, is undesirable. It has, for example, sometimes been found that officers of a local authority have failed to realise that their ultimate responsibility as guardian ad litem lies to the court and not to the local authority which employs them. The appointment of the local authority has led also to the work being done piecemeal by different members of the authority's Children's Department. We understand that if an individual member of the local authority's staff were appointed difficulty would arise over the payment of his expenses under present legislation, but this is a matter which could be provided for and we *recommend* that the words " or body " be removed from subsection (4) of section 8 of the Act, and that subsection (5) be brought into line with the corresponding subsection of section 9.

75. It was suggested by a number of witnesses that the enquiries made by the guardian ad litem lay too much emphasis on material conditions and that there is a tendency for the far more important factor of the emotional relationship between the child and the adopters to be overlooked. This is not a matter which could be dealt with by any specific alterations in the duties of the guardian ad litem as laid down in Rules. We are convinced that, whatever might be put in the Rules, such aspects of the matter as the attitude of the adopters towards the child and their reasons for adopting him could only be adequately assessed by a skilled worker. We have had evidence about cases where adoption orders have been granted to unsuitable adopters, and it was clear that an unskilled guardian ad litem had failed in his duty to investigate all the circumstances of the case and report them to the court. We appreciate the difficulty which some courts may have in finding skilled workers, but we deplore the practice of courts which do not expect the guardian to carry out all the prescribed duties but allow some of them to be performed by the solicitors for the applicants or by some other interested party. We are uneasy, too, about the practice of certain courts, which regularly appoint persons such as solicitors, clergymen and others who, however willing and however admirable as individuals they may be, are neither by training nor even by experience really competent to do work of this specialised nature, on the efficiency of which the future happiness of the child must very largely depend.

76. We *recommend*, therefore, that the statute should require the court to appoint a person who is suitably qualified and experienced. We do not think that more specific directions than this could be given, and we realise that the effect of such a provision would probably be to limit the field of choice to a Children's Officer, a Probation Officer, or some other trained social worker. We heard fairly strong evidence from Scotland of objection to the appointment of Probation Officers, and we gather that there is a similar feeling in parts of Wales. This objection appears to be based partly on the connection of Probation Officers with the criminal courts, and partly on the fact that their time is already fully taken up, while some witnesses thought that their training did not qualify them for adoption work. We understand that Probation Officers in England are now performing many duties besides those connected with the treatment of offenders, e.g., matrimonial and other domestic proceedings, and the more they do so the less justification there is for any prejudice against them. From the evidence we have heard we are satisfied that in England they are most suitable persons to carry out the duties of guardian ad litem in cases where it would be improper for an officer of the

local authority to undertake them. In Scotland, however, the feeling against utilising the services of Probation Officers in adoption cases appears to be too general to be disregarded, and we suggest that, at any rate for the present, where the Children's Officer has been concerned in the placing of a child, the Children's Officer of a neighbouring area should be appointed.

77. In the High Court, the Rules provide for the Official Solicitor to be appointed guardian ad litem unless he does not consent or unless the applicants desire some other person to be appointed. The principle underlying this arrangement appears to us to be obsolete. We consider that it would be anomalous if the recommendation in the preceding paragraphs did not apply also to applications made to the High Court.

78. Alterations of a relatively minor nature in the detailed duties of the guardian ad litem, which in England are specified in the Second Schedule to the Rules, are recommended in Part III of this Report, paragraphs 253 to 260.

79. While our report was in draft our attention was called to a case before the Court of Appeal (*Re P, an infant*) in which it appeared that the guardian ad litem had tried to persuade the mother (who had intimated her intention to withdraw her consent to the adoption) to change her mind, telling her that the proposed adopters might make a claim for maintenance of the child while he had been with them during the probationary period. The court said that in their view this statement was unjustifiable and regrettable. In our view it is no less regrettable that the guardian ad litem should seem to take sides in the matter. It is improper for a guardian ad litem or any agent of his to influence, or even give the appearance of attempting to influence, the decision of any respondent whom he may interview. His duty is to make enquiries and to report the facts impartially to the court. As an officer of the court he should not bring any pressure to bear on any party.

4. PROCEDURE

THE COURTS

80. Much has been written and said by those specially interested in adoption about the jurisdiction in adoption proceedings, and a number of witnesses put forward the view that the present triple jurisdiction is unsatisfactory. Several witnesses suggested that jurisdiction should be limited to one type of court: in the light of subsequent experience it is interesting to recall that the Hopkinson Committee would have entrusted it to County Courts and the Tomlin Committee to the High Court with a possible extension to "Children's Courts".

81. In England, both the County Courts and the Juvenile Courts enjoy the confidence of the public interested in adoption. Both involve a minimum of expense. Both are easily accessible. Both sit relatively frequently. Both have much experience in this type of work. If in isolated cases decisions are made wrongly or capriciously our recommendations in paragraph 133 as to appeals should provide redress. The High Court makes only a very small number of adoption orders (for detailed figures see Appendix II). Proceedings for adoption in the High Court cost on an average £40. We think, however, that the maintenance of the jurisdiction of the High Court in adoption is in the public interest because if our recommendations as to appeals are accepted the Judges who will hear them will not be entirely without personal experience of adoption cases in courts of first instance. Moreover, the High Court seems to attract

a number of adopters who live at a distance from London and imagine that proceedings there will afford an additional security against the curiosity of neighbours and relations.

82. In Scotland, adoption proceedings may be taken in the Court of Session or a Sheriff Court or a Juvenile Court, but almost all orders have been made by the Sheriff Courts. None has been made by a Juvenile Court. The reason for this may be that Juvenile Courts do not as yet provide a service throughout Scotland, but have been established in only four areas.

83. A memorandum submitted to us referred to the possibility of special domestic courts being set up for all matrimonial and similar proceedings, and suggested that adoption could properly be dealt with by them. This may well be so, but after careful consideration we think that until such time as courts of this specialised kind come into existence it would not be right to deprive any one of the existing tribunals in either country of its jurisdiction in adoption proceedings.

84. We were told that an impression exists in some areas in England that one court is "easier" than another, and we entirely agree that anything capable of giving rise to an idea that some courts are less careful than others is to be deprecated. It must, however, be borne in mind that among the hundreds of courts which have jurisdiction in adoption cases variations in outlook and in the exercise of discretion are unavoidable. Uniformity in judgment is not to be expected. We think that dissatisfaction may be partly due to certain differences between procedure in County Courts and in Magistrates' Courts, and we *recommend* that as far as possible procedure should be assimilated.

85. We have heard from some witnesses in England that difficulty is sometimes met with through undue delay in fixing the date of the hearing; others said that the hearing is sometimes fixed too soon after the appointment of the guardian ad litem to allow him enough time to make his enquiries. In Magistrates' Courts the Rules require that the court shall fix the date and time of the hearing at the time of appointing a guardian ad litem. In County Courts the guardian ad litem is appointed by the Registrar, who then fixes the date and time of hearing. We *recommend* that Clerks to Justices equally should be enabled to appoint the guardian ad litem and to fix the date and time of the hearing. In both the County Court and Magistrates' Courts the appointment of the guardian ad litem, the fixing of the date of hearing, and the issue of notices are to be done "as soon as practicable" after the application is made. We see no sufficient reason why these steps should not be taken immediately the application is lodged. We therefore *recommend* that the Rules should provide accordingly and that the form of application should have appended to it a receipt for completion by the Registrar or the Clerk to the Justices, as applicable, to show the date and time of hearing. The Rules should require that this date should be as soon as possible after the expiration of a period of six weeks from the lodging of the application. As explained in paragraph 66 the applicants will already have had the child in their care for at least two months.

86. The Act provides that the court, before making an adoption order, shall be satisfied "that the order if made will be for the welfare of the infant". Some of the evidence we heard leads us to think that some courts are satisfied by reports which contain little information in support of the recommendation of the guardian ad litem. We have no doubt that this can be explained by the fact that the court has come to rely on the experience and skill of the guardian ad litem; nevertheless, the responsibility for making or refusing an order rests upon the court and it is necessary that it should

be supplied with adequate information on which to base its decision. Some of our later recommendations are directed to strengthening the Rules in this respect (see paragraph 255). We think it important that no colour should be given to the impression that the court acts as a mere rubber stamp for giving effect to the views of the guardian ad litem.

87. We have been informed by witnesses that in some courts the report of the guardian ad litem has been read out in front of the applicants. It is a confidential report to the court and should be treated as such. In our view the proper course is for the court to peruse the report before the hearing and at the hearing to make such observations and ask such questions as may be necessary in the light of the report.

88. Another practice which we deprecate is that of those courts which are said to advise all applicants that it is necessary to employ a solicitor for the purpose of making an application for an adoption order.

89. We have been told that the proceedings in some courts are apt to appear perfunctory. It is natural for the adopters, who have given much thought to the matter and have been visited a number of times by two or three different people during the probationary period, to feel keyed up for the court hearing which is the culminating point of the procedure, at which, under English Rules (other than those of the High Court) personal attendance is compulsory. They must feel a sense of anti-climax, and perhaps some dismay, if, when the momentous day arrives, the court appears to take no interest in them and to grant the order automatically. The remedy lies with the courts concerned. We have to rely upon their imagination and humanity.

ATTENDANCE

90. Nearly all the witnesses we heard in England expressed the opinion that both the applicants and the infant should attend the court; and there was general agreement among English witnesses that adopters like to attend, bringing with them the child of whom they are so proud. The practice in Scottish courts varies. Some insist on attendance in all cases, others only where the circumstances are unusual. Some applicants express reluctance to attend hearings, but we think that a sympathetic attitude from the court can counterbalance this.

91. There is considerable psychological value in the practice of the adopters and the child attending the hearing, particularly where the child is old enough to understand the proceedings. It may also assist courts in deciding whether to exercise their discretion to make an adoption order if they are able to see the applicants with the child, and to judge for themselves their mutual reactions. We think, too, that the presence of the adopters is valuable so that courts when granting an adoption order can remind the adopters of such important matters as the need for bringing up the child in the knowledge that he is adopted, the fact that he is to be theirs "for better, for worse", and the necessity of making provision by will for the adopted child. We do not believe that it is everywhere understood that under the present Scots law of intestate succession, and even under the present law of succession in England (see paragraph 160), an adopted child may be left unprovided for unless the adopters make provision for him in a will made after the date of the adoption order. On the whole, therefore, we *recommend* that the attendance of the applicants and the child should be required, save in the most exceptional circumstances.

SERIAL NUMBERS

92. We understand that in some courts the value of the "serial number" procedure may be prejudiced by the applicants having to wait alongside

people attending on other matters. Where separate accommodation cannot be provided in existing premises, we think that courts might consider dealing with adoption applications at an entirely separate sitting.

93. We have also heard of courts which decline to allow applicants to exercise their right to apply under a serial number. We do not accept the view held by some people that too much use is made of the "serial number" procedure. The procedure provides a very valuable protection for the adopters and for the child, and no attempt should be made to thwart applicants who wish to take advantage of a right deliberately conferred by Parliament.

IDENTIFICATION OF THE CHILD

94. We understand that in Magistrates' Courts the question of the identification of the child is a source of difficulty. It has been represented to us by some witnesses who are concerned with these courts that the mother of the child ought to be required to attend for the purpose of identifying him. We do not think that such a procedure would necessarily be useful, inasmuch as months, or even years, may elapse between the time when the mother parts with the child and the time when an application for an adoption order in respect of him is heard. There are cases in which the mother is quite unable to recognise the child either in the flesh or in a photograph, and it is an unnecessary complication of procedure to require the attendance at the court of every person through whose hands the child may have passed from the time he left his mother to the time he was handed to the adopters. We are told that, among over a quarter of a million adoption orders which have been made, in only two instances had the child adopted turned out not to be the child described in the order—and in one of those instances the child produced in court had been identified on oath as a child who was afterwards proved to have been in another part of the country on that date. We recognise, however, the considerable complications which might arise if even one child were wrongly described as having been adopted, and therefore we favour the positive identification, whenever possible, of the child produced in court as the child described in the application. To facilitate this, we *recommend* that provision should be made for evidence by affidavit to be acceptable as evidence of facts in adoption proceedings in Magistrates' Courts as it is in County Courts. As evidence by affidavit is not a recognised part of procedure in Scots law, the duty of certifying identity could be placed, in Scotland, on the curator ad litem.

95. As a corollary, we *recommend* that the form of consent should be varied to provide for either parent to certify that the birth certificate produced with the form relates to his or her child, and that the form with such a certificate should be admissible as evidence of the date and place of the child's birth. The form should also provide for the parent to state when and where he or she last saw the child, and the name and address of the person to whom the child was transferred.

CONSENTORS AND RESPONDENTS

The Mother

96. It is generally agreed that the consent of the child's mother is the most important of those which are required before an adoption order can be made, and we have some sympathy with those who have suggested that the court should be able to see the mother and satisfy itself by direct questioning that her consent is freely given without pressure.

97. Nevertheless, we do not recommend a return to the provision of the former English Rule which normally required her attendance, since much hardship, and even distress, may be occasioned by bringing a mother what may be a considerable distance for this purpose, perhaps months or even years after she has given up her child. Nor do we think it entirely practicable to require, as another witness suggested, that she should attend before a court in the area in which she lives to affirm her consent. We received evidence that some of these mothers leave the United Kingdom as soon as possible after the birth of their child. Subject always to her right to appear to oppose the making of an order, or to attend the court if she wishes (separately from the applicants in a " serial number " case), even though she does not oppose, we think that it is safe to rely on her written consent signed before and attested by a Justice of the Peace, if it can be ensured that she fully understands the effect of her signature. We therefore *recommend* as a precaution that the Rules should require the form of consent to be read over and explained to the mother before she signs it, and that the attestation should include a certificate that this has been done.

98. We have heard that it is by no means uncommon for the form of consent to be signed and witnessed in blank, that is, without either the name of the applicants or their serial number having been inserted. Such a consent is quite worthless ; subsequent legislation has not in any way altered the decision in *Re Carroll* that consent must be to adoption by a specific applicant and not a " general " consent to adoption by anybody. The presentation of an uncompleted form of consent can only arise from the inexperience or lack of care of the magistrate who has attested it, but we *recommend* that to make the position absolutely clear the attestation should include a certificate that the blanks in the form of consent had been duly filled in before the form was signed.

99. Much evidence has been received that the arrangements for the mother's consent to be given before any Justice of the Peace are unsatisfactory, since not all Justices are familiar with adoption matters and therefore able to give the mother as full an explanation of the consequences of consenting to her child's adoption as is desirable. We *recommend* that in England only a magistrate who is a member of the Juvenile Court Panel should be able to attest consent, but that in addition a County Court Judge, a Registrar of a County Court or a Clerk to Justices should be enabled to do so.

100. In Scotland, except in a few areas, there are no special Juvenile Court magistrates and the situation as regards Justices of the Peace is therefore not really parallel to that in England. There is, however, a system of Notaries Public covering the country who are highly responsible people and we had evidence that they would be suitable persons to attest consents. We accept this evidence, and would add that the Sheriffs themselves should be regarded as competent and could frequently perform this service. We accordingly *recommend* that in Scotland a written consent should be admissible if attested by a Sheriff, a Justice of the Peace of a Juvenile Court, or a Notary Public.

101. We have considered whether Commissioners for Oaths in England should be similarly qualified to attest consents. We think, however, that our recommendation above will provide, in all parts of the country, a sufficient number of people able and ready to perform this service and to give a full explanation to the mother.

The Father of a Legitimate Child, and Legal Guardians

102. We do not recommend any alteration in the present law as regards the consent of a legal guardian or of the father of a legitimate child.

The Father of an Illegitimate Child

103. The consent of the child's natural father is now required if, but only if, he is liable, by virtue of an order or agreement, to contribute to the maintenance of the child. We have had evidence that this provision is not entirely satisfactory. Some fathers, though they voluntarily maintain or contribute to the maintenance of the child (and perhaps to that of the mother) and take a great interest in him, have never entered into any agreement to do so. In these circumstances the father's consent is not required, and he may be given no opportunity to state his views about the proposed adoption. On the other hand, a father against whom there is an affiliation order may be able to prevent a perfectly suitable adoption merely out of spite unless the court is prepared to dispense with his consent. We have been told that some mothers who are entitled to seek affiliation orders do not do so because they wish to have the child adopted and are afraid that the need to obtain the consent of the father will be a stumbling block.

104. After much consideration, we do not think that it is right for the father of an illegitimate child to have the same powers as the mother as respects consenting to the adoption, and we *recommend* that sections 2 (4) (*a*) and 3 (1) (*b*) of the Act should be so amended that it should not be necessary for his consent to be obtained or dispensed with. He should, however, be consulted if he has materially contributed towards the child's maintenance or shown a genuine and continuing interest. It is obviously important that a father who has taken a genuine interest in his child should have an opportunity of making representations as a respondent to any application to adopt the child. This should not, of course, involve bringing the father (or alleged father) before the court as a general rule. We *recommend* that it should be for the guardian ad litem to ascertain and report to the court whether the father has taken sufficient interest in the child to warrant his being made a respondent to the application.

An Infant Parent

105. We understand that doubt has been expressed whether a parent who is still an infant is capable of giving consent to the adoption of his or her child. While we are entirely in agreement with the view that a young mother should receive unprejudiced advice about the future of her child, we think it would be wrong for the power of consenting to be given to a guardian or "next friend". The mother, however young, has a moral right to decide whether or not she wants to keep with her the child whom she has borne, and we *recommend* that the Act should make clear that it is her own consent which is required. The same principle applies to the consent of the infant father of a legitimate child.

The Child

106. Under section 5 (1) of the Act, one of the matters of which the court must be satisfied before making an adoption order is "that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant having regard to the age and understanding of the infant". This is dealt with in different ways; in the County Court the guardian ad litem is charged with the duty of satisfying himself, within twenty-one days of receiving the notice of application (which is served on him by the Registrar), whether the child is or is not of an age to understand the effect of an adoption order. If the guardian decides that he is, his duty is to notify the court and to find

out whether the child knows about the application for his adoption. If the child does not know, it is then the guardian's duty to tell him. (In practice no doubt the guardian does not tell the child if he is able to persuade the applicants to do so.) When the court is notified that in the guardian's opinion the child is of an age to understand, the Registrar is required to issue a notice *to the applicants* telling them that the attendance of the child will be required.

107. In Magistrates' Courts the guardian ad litem is required to satisfy himself of the understanding of the child and if appropriate to tell him of the application, as in the County Court. If the court agrees that the child is of an age to understand the effect of an adoption order they must then issue a notice of the application *to him*. It has been submitted to us that the obligation to issue a notice to the child is tiresome and serves no useful purpose. We have considered whether it would be more satisfactory to require the consent of any child above a stated age than to leave the child's understanding to be assessed by the guardian ad litem; but since it is impossible to associate any particular level of intelligence with any particular age we think that the present arrangement is probably the better, with one important exception. That is, that if the guardian thinks that the child is old enough to understand (and we believe that most children would understand a simple explanation at the age of four or five) the obligation to tell the child who is not aware of the application should not even appear to be laid on the guardian ad litem; but he should be required to ensure that the prospective adopters themselves have told the child. We think it deplorable that the child should hear about the proceedings from anyone other than those who are to be (and probably are already looked on by the child as) his lawful parents. In Scotland, subsection (4) of section 2 requires the consent of an infant who is a minor (that is, a boy of fourteen or over or a girl of twelve or over), but we attach little value to a written consent given by a child of such an age, or a little over the minimum age, who may easily be influenced. We *recommend* that this provision should be repealed. It is, of course, important that the curator ad litem should interview the child and satisfy himself of the child's wishes. The present Act of Sederunt does not set out the curator's duties in this respect in detail, but we think it would be right to ensure that steps similar to those we have recommended for the guardian ad litem in England will be taken by the curator in Scotland. In the same way, the procedure of the guardian ad litem in the High Court should conform with that in County Courts and Magistrates' Courts.

The Mother's Husband

108. A variety of views was expressed in evidence about the difficulties which are caused by the need to obtain the consent of the husband of the mother of a child born in wedlock when the mother alleges that he is not the father. It has been represented that a married woman who has had a child unknown to her husband will rob the child of any chance of enjoying the benefit of adoption, because of fear that the request for her husband's consent will reveal her secret and break up the marriage. In Magistrates' Courts, unlike County Courts, there is no power to dispense with or defer service of notice on the mother's husband, even though it is intended later to bring evidence that he could not have been the father and that his consent is thus not required. If the child is registered as legitimate we do not think that it would be right to open the door to the possibility of his being treated as illegitimate on the statement of one parent alone. We *recommend* that the Rules for all courts in England should provide that,

if the child is registered as illegitimate, service of notice on the mother's husband may, on special application in that behalf, be deferred until there has been opportunity to bring evidence before the court about the paternity of the child, and that Magistrates' Courts should be given the power already possessed by County Courts to dispense with service of notice on the mother's husband. We have been told of cases in which it has been found that the mother of a legitimate child has registered him as illegitimate out of animus against her husband, and, although such cases must be exceedingly rare, we think that care should be taken not to rely solely on the mother's word. The burden of proof that the husband's consent is not required should rest on the applicants. We suggest that a similar Rule should be incorporated in the Scottish procedure.

109. A minor difficulty which sometimes arises is that the mother's husband, who knows of the child's existence but denies paternity, may be willing for the child to be adopted but objects to signing consent as a father. (In such cases non-access cannot generally be proved and he must be served with notice, and his consent obtained, because of the possibility that he may have been the father.) We suggest that this might be remedied by providing that his signature may be given in the capacity of "spouse of the mother".

A Body having Parental Rights

110. The present law leaves in some doubt the position of a local authority or other body or person to whose care as a "fit person" a child has been committed by an order under the provisions of the Children and Young Persons Act, 1933, or the Children and Young Persons (Scotland) Act, 1937, and of a local authority which has assumed parental rights by a resolution under section 2 of the Children Act, 1948. In the former case the "fit person" has the same rights and powers as if he were the child's parents, and in the latter case the rights of the parents actually vest in the local authority, but in each case for as long only as the order or resolution, as the case may be, remains in force. Local authority witnesses argued that in these circumstances the consent of the local authority should be required either as a "parent" of the child or as a body liable by virtue of the order to contribute to the child's maintenance. Having regard to the fact, however, that the responsibility of the local authority ceases, at the latest, when the child reaches the age of eighteen, whereas the parents continue to be parents and may be presumed to have an interest so long as they and the child are alive, we feel that the local authority should be regarded rather as a temporary guardian, and that it would be wrong for a local authority in this position to have equal power with the parents in an irrevocable decision which may affect the whole future of the child. We *recommend*, therefore, that it should be made clear that the consent of the local authority or any other "fit person" is *not* required but that in the circumstances mentioned above the local authority or other "fit person" should be made a respondent, just as when it has placed the child specifically for adoption, in order that the court may take its views into consideration.

Other Parties

111. We have recommended in paragraph 104 that the consent of the natural father of an illegitimate child should no longer be required. There may be other persons or bodies whose consent is required under existing provisions, because they are liable, by virtue of an order or agreement, to contribute to the maintenance of the infant. So far as such persons or

bodies are concerned, we *recommend* that their consent should no longer be required, but that they also should be made respondents to the application. The Rules already provide for those who have contributed voluntarily, or any other persons, to be made additional respondents if the court thinks fit.

112. We think it right, however, that the closest relative of a deceased parent should invariably be consulted. We have heard of cases in which a father of a legitimate child has been killed on active service and his child has been adopted without the knowledge of the father's family. We *recommend* that provision should be made for the wishes of a deceased parent's next of kin (if he can be traced) to be taken into consideration before an adoption order is made.

DISPENSING WITH CONSENT

113. Section 2 (3) of the 1926 Act provided that an adoption order should not be made without the consent of every person or body who was a parent or guardian of the infant, or who had the actual custody of the infant, or who was liable to contribute to the support of the infant (that is, normally, the person adjudged to be the putative father of an illegitimate infant). This was subject to a proviso that:

"the court may dispense with any consent required by this subsection if satisfied that the person whose consent is to be dispensed with

has abandoned or deserted the infant

or cannot be found

or is incapable of giving such consent

or, being a person liable to contribute to the support of the infant,

either has persistently neglected or refused to contribute to such support or is a person whose consent ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with."

114. It was originally believed that the consent of a parent could be dispensed with only on the fairly narrow grounds that he had abandoned or deserted the infant, or could not be found, or was incapable of giving such consent. In the case of *Harris* v. *Hawkins*, however, the High Court somewhat unexpectedly decided that the court could dispense with *any* consent if, in the opinion of the court and in all the circumstances, the person was one whose consent should be dispensed with.

115. Section 3 (1) of the 1949 Act restated the requirements as to consent, and somewhat altered the grounds on which consent might be dispensed with. In the case of a parent or guardian neglect and persistent ill-treatment of the child (grounds which already existed in the Scottish Act of 1930), were added to abandonment; in the case of a person liable to contribute, refusal or persistent neglect to contribute was retained; and in any case disappearance and incapacity were retained; and unreasonable withholding of consent was substituted for the ground that the person's consent ought, in the opinion of the court and in all the circumstances of the case, to be dispensed with.

116. Upon consolidation in 1950, the dispensing powers appeared in section 3 (1) and were thus separated from the provisions requiring consent, which appeared in section 2 (4). Some of the emphasis which had been given by former Acts to the fact that adoption should normally be possible only if it is in accordance with the parents' wishes seems to have been lost by this separation.

117. We believe that it was expected that the new power to dispense with consent on the ground that consent was unreasonably withheld would

tend to focus the attention of courts on the welfare of the child when they were considering whether they were able to dispense with the consent of a parent. Two recent judgments, in cases where parents whose consent had been dispensed with successfully appealed against adoption orders, indicate that the wording selected was not apt for this purpose, and indeed some witnesses expressed the view that the discretion apparently given by the introduction of the words " unreasonably withheld " had been entirely removed by these judgments. Others were of the opinion that an adequate discretionary power remained, but it seems clear that in the present state of case law the question to which courts must direct their attention is whether the parent is maintaining an attitude which it is unreasonable for him as a parent to hold, and not primarily whether the child's welfare is likely to be promoted more by the grant of an adoption order without the parent's consent than by refusal of an adoption order (with its consequence that the child either reverts to the care of the parent, who may merely place him in an institution, or that he remains in the *de facto* adoptive home without the security of legal adoption).

118. We were asked by some witnesses to consider a proposition that a parent's written consent should become irrevocable at some point, such as three months, after it had been given, but before any adoption order is made. Such a proposal is made partly to save the child from liability to the upsetting experience of being moved after he has been in the prospective adopters' home for three months or more, and partly to save the adopters from the distress of having to part with the child to whom they have become attached. In our view there are several objections, moral and practical, to this. It may be difficult, if not impossible, to ensure that a written consent is genuinely given. It must be remembered that the admissibility of a written consent was introduced when it ceased to be obligatory for the parties to attend the hearing in all but special circumstances. Even if the parent were required to attend court at the end of the period after which consent was to become irrevocable, and there affirm that he or she consented, we have had to ask ourselves whether it would be right for the parent to be precluded from changing his mind after that, while the prospective adopters are still permitted to change theirs. It seems to us that it would be wrong to provide that a mother's consent should be irrevocable three months after she had given it in those not uncommon cases where after three months the mother marries and can offer a home. Again, the position of a child whose parents had given irrevocable consent would be unfortunate indeed if the prospective adopters subsequently rejected him, as they have every right to do (and it would obviously be iniquitous to insist that a child should be adopted by unwilling persons). Apparently he would have lost his natural parents (who could hardly be expected to resume parental rights after their signing them away had been made irrevocable) without having acquired new ones by adoption. All these considerations disincline us to recommend any departure from the law as originally enacted in 1926, and emphasised in the judgment in *Re Hollyman*, that consent must be at the time when the adoption order is being made and consent signified before then may be withdrawn up to the last moment before the making of an order.

119. Some witnesses put forward the view that in deciding whether a parent's consent could be dispensed with it should be possible for courts to give primary consideration to the welfare of the child, or alternatively that in considering the matter paramount importance should be attached to the welfare of the child. It was suggested that something akin to the provision of section 1 of the Guardianship of Infants Act, 1925, should be

incorporated into the Adoption Act. This section declares that " Where . . . the custody or upbringing of an infant . . . is in question, the court, in deciding that question, shall regard the welfare of the infant as the first and paramount consideration, and shall not take into consideration whether from any other point of view the claim of the father . . . is superior to that of the mother, or the claim of the mother is superior to that of the father." In other words, where the claim is that of one parent against the other, and the issue is to be decided by means of an order which may be revoked or varied at any time, the child's welfare is to be the paramount consideration. Much as we dislike the proprietary conception of a parent's rights over his child, it seems to us inescapable that different considerations must apply in adoption, where the claim is not of one parent against the other, but of strangers against parents, and the issue is whether the parents' relationship is to be permanently cancelled by artificial means. The analogy between adoption and guardianship is imperfect. We are fortified in our view by the evidence of a number of witnesses who foresaw the danger that by assigning paramount importance to the welfare of the child the way would be open for any parent who gave up the care of his child for a time to be deprived permanently of the child, merely because adopters had been found for him who appeared to be more suitable or financially better able to bring him up than the natural parents. We think that this danger is not so remote as it may sound, particularly in these days when many suitable would-be adopters are seeking children. Lastly, we must mention the view, strongly held in some quarters, that it is generally best for a child to be brought up by his natural parents or parent. Quite apart from the possible value of the blood tie, we think that the importance of preserving parental responsibility is such that the parents' claims should not be reduced for the sake of giving greater claims to prospective adopters.

120. Nevertheless we are aware that there are cases in which a parent, usually, but by no means always, an unmarried mother, has allowed a child to remain for months, or even years, in the care of others, and to be placed with prospective adopters, but when an adoption order is applied for has refused her consent. In the worst cases we have in mind the parent may, in the preceding months or years, have shown no interest in the child, have never visited him or enquired after his welfare, have sent no symbol of love or affection, no birthday or Christmas present, nor even a letter, nor by any other action shown that her parenthood is a reality to her. There are sometimes circumstances which can excuse such behaviour, and it is obviously necessary for each case to be dealt with on its individual facts and merits; but if the mother can adduce no reason for her neglect of the child (for such it may colloquially though not technically be termed) we think the court should have power to dispense with her consent. We *recommend* the removal from the statute of the ground that consent is unreasonably withheld and the addition of a further specific ground in terms which allow the court to dispense with the consent of a parent who in its opinion has made no attempt to discharge the responsibilities of a parent.

121. Consequentially an amendment will be necessary to the provision in subsection (3) of section 3 that, if consent given without knowing the identity of the applicants (i.e. under " serial number " arrangements) is withdrawn on the ground only that the identity of the applicants is not known, the consent shall be deemed to be unreasonably withheld. As it appears by reference to section 3 (1) (*c*) that the effect is that the court can dispense with the consent in these circumstances, we *recommend* that the Act should say so directly.

122. Our attention was drawn to the fact that Rule 9 of the Adoption of Children (County Court) Rules, 1952, provides that where an applicant asks for the consent of any person to be dispensed with he may also ask, and the Judge has discretion to order, that service of notice on that person shall be dispensed with. We do not think it is right that there should be any possibility of the consent of a parent being dispensed with unilaterally and we *recommend* that the Rule be amended to provide that notice must be served, except in the case of the mother's husband in the circumstances described in paragraph 108.

RELIGIOUS PERSUASION

123. On the introduction of the "serial number" procedure for concealing the applicants' identity from the natural parents, provision was made that a parent who had not been told the identity of the applicants might give his or her consent "subject to conditions as to the religious persuasion in which the child is to be brought up." We have had no evidence to suggest that this provision has worked badly in practice, and we think that it might be unwise to alter it, but several witnesses, including one adoption society with a strong religious affiliation, have pointed out that the wording of section 3 (3) is unfortunate, in that it appears to give a parent some control of the child after the adoption order has been made. We do not recommend any alteration in principle, but we think that the intention of the statute would be made clearer if it provided that consent might be subject to a condition as to the religious persuasion in which it was intended to bring up the child. We therefore *recommend* that the subsection be so amended, and that the corresponding item in the form of consent of a parent to an adoption order should be replaced by the following formula :—

> "Provided that it is the intention of the applicants, if an adoption order is granted, to bring the child up in the ..... religion".

SERIAL NUMBER FOR A MOTHER

124. A number of witnesses have submitted that the mother is unfairly treated by the absence of arrangements for her identity to be concealed from the adopters, as theirs may be from her. We have been told that some mothers are deterred from having their children adopted because the disclosure of their names and addresses may expose them to a risk of blackmail, or to the stigma attaching to unmarried motherhood. We have been told also that applicants who have proved so unsuitable that a child placed with them has had to be withdrawn have been known to communicate with the mother and persuade her to return the child to them direct. We have considered these representations with sympathy, and have tried to devise a scheme whereby the mother's name could be suppressed, but we find that there are too many practical difficulties to make it possible to provide for her identity to be concealed. For example, it might be possible, when the arrangement is made by a local authority or by an adoption society, to avoid handing to the applicants the child's birth certificate and other documents identifying the mother. But even in these cases, as in every other case, difficulties would arise in the future in connection with such matters as medical and educational records, if the adopters were ignorant of the child's original name. It should also be realised that during the probationary period, especially if the child is placed more than once, inextricable confusion might arise. For those reasons, though with some regret, we feel unable to make any recommendation on this matter.

REMOVAL OF CHILD WHEN AN ADOPTION ORDER IS REFUSED

125. Many witnesses have drawn our attention to the fact that when an adoption order is refused there is nothing to prevent the child remaining in the adoptive home, unless the arrangement was made by an adoption society. In the latter case the child must be returned to the adoption society, but in all others there is no power for any immediate action to be taken. It is true that if the home is extremely bad the local authority may apply under section 33 of the Act for an order to remove the child, but we understand from local authority witnesses that very little use has ever been made of this power, because of the difficulty of getting strong enough evidence. It appears to be effective only if the material conditions are exceptionally unsatisfactory, or the custodian of the child grossly unsuitable.

126. Even when the case has been arranged by a society the result envisaged by the Act is not always achieved. It is by no means unknown for a mother to reclaim her child from the society, and place him again with the same people, who thereafter keep him under a *de facto* adoption. Such a result may be most unfortunate.

127. Some witnesses urged that the refusal of an adoption order should automatically have the effect of committing the child to the care of the local authority. At first glance this suggestion appears attractive, but it would be inappropriate in the case of a "child" approaching his majority, and there must be many cases, particularly where the child is in the care of a relative or the application has to be refused on a purely technical point, that do not warrant such treatment. We have had some evidence to show that at present courts sometimes make an adoption order, although they are not entirely satisfied about the suitability of the arrangement, because they know that the child will stay in the home, and it seems to them on balance to be better to give the child a secure status than not to do so. It seems to us that if provision were made for every child in respect of whom an adoption order is refused to be removed into the care of the local authority courts would often be faced with a similar predicament, and would tend to make an adoption order to prevent the child being removed from a home into which he appeared to be tolerably well settled, even if that home were not altogether satisfactory.

128. We think that the most practical way to deal with the difficulty would be to give the court power, when refusing an adoption order, to direct the local authority to bring the child before a Juvenile Court for consideration whether he is "in need of care or protection", within the definition of this phrase in section 61 of the Children and Young Persons Act, 1933 (as amended by the Children and Young Persons Act, 1952) or section 65 of the Children and Young Persons (Scotland) Act, 1937. We *recommend* the introduction of such a provision. The use of the power of the adoption court to give this direction should, of course, be permissive, not mandatory, so that if that court saw no reason for removal of the child he could remain where he was, as at present. If the adoption court did not give such a direction, or the Juvenile Court were not satisfied that the child was in need of care or protection, supervision by the local authority should continue, subject to our recommendation in paragraph 68.

APPEALS

129. The following paragraphs apply to appeals against interim orders as well as to appeals against adoption orders.

Appeals in England

130. Under the present law there is no specific statutory provision for appeals in adoption matters from any County Court or Court of Summary Jurisdiction in England. Without such a provision the general right of an aggrieved party to appeal from a County Court to the Court of Appeal, except on a point of law, is of no practical use because the making or refusal of an order upon an application for adoption is a matter of judicial discretion, and unless such discretion has been exercised in some obviously improper manner the Court of Appeal, which normally does not see the parties personally, would not override its exercise. There is no right of appeal from a discretionary decision of a Juvenile Court, but on the rare occasions in adoption practice where a point of law arises a case can be stated.

131. The omission of any statutory provision for appeals in the Adoption Act has on occasion led applicants whose application has been refused by a Court of Summary Jurisdiction to seek to avail themselves of section 8 (1) which (according to one possible construction) enables them to apply *de novo* for an adoption order to the High Court, notwithstanding Rule 4 of the Adoption of Children (High Court) Rules, 1950. If this interpretation of that section is right, there is no need for the applicants to rely on any alleged change of circumstances since the earlier hearing by the magistrates. We cannot help feeling that Parliament never contemplated this idea of appealing by way of a fresh application to another court with concurrent jurisdiction. Quite apart from any question as to the correctness of this construction of the section, however, it is proper to consider whether a statutory right of appeal from the inferior courts should be introduced.

132. In our view, the grant or refusal of an adoption order is of too important a nature to justify the withholding of a right of appeal. For instance, we can conceive cases where prospective adopters believe that their application has been dismissed because the guardian ad litem or some other respondent has raised and been upheld upon a capricious or illusory objection which the applicants wish to challenge before a higher court. Similarly, a mother or any other respondent, including the guardian ad litem, may wish to appeal against an order made. In this type of case it is of no practical advantage to provide for an appeal to a tribunal which would not hear oral evidence or see the parties ; or to one which would be inflexibly reluctant to override the discretionary jurisdiction of a court of first instance.

133. For these reasons we feel that an appeal by way of rehearing would be the best method and that the most suitable tribunal to hear appeals from inferior courts would be the two Judges of the Chancery Division to whom the High Court jurisdiction in adoption cases is for the time being entrusted, sitting together as a Divisional Court. We *recommend* that this procedure should be adopted and provision made that :—

(i) the parties, the guardian ad litem, and necessary witnesses (if any) should appear in person before the Judges ;

(ii) oral evidence should be given at the hearing ;

(iii) notice of appeal should be required to be given within a specified (and very short) time after the decision comes to the knowledge of the appellant, and arrangements should be made for appeals to be heard at the earliest possible moment ;

(iv) no proceedings to invalidate an adoption order should be initiated without the leave of the High Court after the expiration of twelve months from the date of the order.

134. As to (iii), it is of some importance that questions of status should be settled without delay, and we recognise also that few appeals can involve more mental distress than those relating to adoption. We think it would be desirable to make the costs of appeals as low as possible and for appeal aid to be available for them.

135. We assume that these appeals would be heard *in camera*, but we *recommend* that provision should be made for the Divisional Court, in its discretion, to give judgment in open court when a point of principle or of public importance has been at issue.

136. If a right of appeal is provided, the inferior courts will no doubt bear in mind the need to record any special circumstances which lead them to make or refuse an adoption order as well as the grounds on which any exceptional discretion (e.g. to dispense with consent) was exercised.

Appeals in Scotland

137. The position is somewhat different as regards appeals in Scotland, where applications for rehearings are not a part of recognised procedure. On the other hand, our attention has been called to a decision in the Court of Session (*Woods* v. *Minister of Pensions*) that where a discretionary power is entrusted to a court, an appellant has to show that the court of first instance erred in law or misused or misapprehended the material on which it exercised its discretion. We therefore *recommend* that in adoption matters a right of appeal on those grounds should be conceded.

138. We are informed that in addition to appeals to the Court of Session there have been one or two appeals from the Sheriffs Substitute (who in practice deal with adoption cases) to the Sheriff Principal. It appears to us that for the sake of uniformity the balance of advantage is in favour of all appeals being direct to the Court of Session, which should, as recommended for the Divisional Court in England, hear them at the earliest possible moment.

REVOCATION OF ORDERS

139. Some evidence was received about the advisability or otherwise of providing for an adoption order to be revoked or annulled in certain circumstances. We are convinced that an adoption order should be final in all circumstances except (1) when it is quashed on appeal, (2) when it is superseded by a further adoption order, and (3) when a court has exercised the power (which we recommend in paragraph 247) to annul an adoption order after a child who has been adopted by his father or mother has been legitimated. We heard of several cases where people, whose adopted child had developed a serious mental or physical defect, were anxious to have the adoption order revoked, but, as we said in paragraph 21, we do not think it would be right to provide for revocation in such circumstances. The result of doing so would surely be to undermine the position of adopted children by exposing them to hazards which do not exist for children living with their own parents. We were told also of a case in which a County Court, on the application of the adopted person, who had then reached the age of twenty-one, made an order purporting to quash the adoption order which had been made by a Magistrates' Court years before. We do not consider it would be any more desirable to provide for an adoption order to be revocable on the application of the adopted person than it would be to enable the adopters to get the order revoked, for this also would tend to prevent the full assimilation of the adopted child into the family.

5. MISCELLANEOUS

HEALTH OF APPLICANTS AND CHILD

140. We find that in the past the tendency has been to pay far more attention to the health of the child than to the health of the would-be adopters. In our view the emphasis should be reversed. We have pointed out in paragraph 21 that physical and mental perfection, even if it could be guaranteed, is not essential to qualify a child for adoption, and that children who may not attain (or even are known not to have attained) this high standard are yet suitable for adoption, provided the applicants are aware of, and are ready to accept, the defects, be they large or small. If the child is reported not to be in perfect health, we consider that a court should not on that ground refuse to make an adoption order, if it is satisfied that the applicants have been informed of, and understand, the possible implications of the medical report, and are ready and willing to accept the child in spite of any handicap disclosed. On the other hand, insufficient attention seems to have been paid to the consideration that it is not in the interests of a child to be adopted by applicants whose prospects of good health and normal length of life are in doubt. It is of the utmost importance that the court should be fully apprised of the circumstances if there is any reason to suspect that before the child has reached an age at which he will be capable of social or economic independence either of the adoptive parents may be dead or an invalid. Special consideration should be given to this point before an adoption order is made, at least in favour of persons not related to the child.

The Applicants

141. At present one of the duties of the guardian ad litem in England is to enquire " whether either of the applicants suffers or has suffered from any serious illness, and whether there is any evidence of tuberculosis, epilepsy, or mental illness in their families ". This is not wholly satisfactory, because, to a great extent, the guardian ad litem must be dependent on the information which the applicants choose to give him, and the family doctor, if consulted, cannot be expected to disclose medical history to a layman ; thus the court is not necessarily fully advised of the facts. In cases arranged by an adoption society, the Adoption Societies Regulations, 1943, in England and Scotland require that the report on the prospective adopters, which must be considered before the child is placed, should state whether the prospective adopters and the members of their household " appear to be in good health ". A lay opinion as to " appearance " of good health can have little, if any, value, and we were told that in practice most adoption societies require a medical certificate to be submitted by would-be adopters. Many witnesses besides those representing adoption societies stressed the desirability of a medical examination of all adopters before a child is placed. We have indicated in paragraphs 44 to 47 that the suitability of adopters cannot be established *before* the child is placed in those numerous instances where the parent places the child direct or through a third party. It seems to us that it would be quite impracticable to provide for prior examination in any other cases than those arranged by a local authority or an adoption society. In all cases, however, we think it right that the court should have proper advice about the state of the applicants' health, both physical and mental. Indeed we think that it is of fundamental importance, and we considered whether an examination by the applicants' own doctor should be required. The cost of this might deter prospective applicants of small means, however and we therefore *recommend* that all applicants for an adoption

order other than the father or mother of the child (and his or her spouse on a joint application) should be required to undergo a medical examination by a doctor appointed by the court and remunerated from public funds. The court doctor would be able to consult the family doctor in any case of doubt, and in cases arranged by a local authority or an adoption society he should have access to any medical report obtained by the authority or society. Applicants should not see the medical report, which should be confidential to the court and the guardian ad litem. This would minimise any possible embarrassment to the family doctor in his future relations with his patients.

142. We *recommend* that the medical report should include information on the health matters of which details are given in Appendix III.

The Child

143. Since 1950 a medical certificate " as to the physical and mental health of the infant " has in England been included among the documents normally lodged at the court when an application for an adoption order is made. We understand that the purpose of this requirement was to ensure that the applicants had an opportunity of obtaining for themselves a report on the child's state of health, so that they could not afterwards be heard to complain that a local authority or an adoption society had misled them as to the child's condition. There must be cases, however, in which courts would wish to satisfy themselves that the applicants understand the nature of any abnormality or defect which the child may have shown, and we were told that the medical certificates now attached to the forms of application are not always adequate for this purpose. We therefore *recommend* a schedule of health matters on which information should be obtained, of which details appear in Appendix IV. No provision should be made for the doctor to express an opinion on the suitability of the child for adoption. As we have indicated, this is a matter for the applicants to decide when they know the facts.

144. We were asked to consider requiring two medical examinations of every child under five years of age who is placed for adoption. We agree that it is advantageous for prospective adopters to know the state of a child's health before he is placed with them, and, in view of the speed of a young child's development, for a second examination to be made at a later stage. On the other hand, we feel that repetition of medical examinations would be unduly burdensome, and might deter applicants, leading to an increase of *de facto* adoptions. Provision is already made for a medical examination where a child is placed at the disposal of an adoption society, for the Adoption Societies Regulations, 1943 require the case committee to consider a detailed report on the health of the child. The cost, if any, of the examination may fall on the parent of the child or on the adoption society. We understand that some societies show the report obtained to the prospective adopters before handing the child over. Since an examination before placing is desirable, and a record of it has been found by adoption societies to be valuable, this provision should continue, save that we *recommend* that Part E of the Third Schedule to the Regulations should be amended by the substitution of the items we have recommended. The report obtained by the adoption society would then be in a form suitable for submission to the court and we *recommend* that a copy of it should be allowed to be lodged with the application, provided that it is lodged within six months of the date of the examination. These new arrangements should apply also to adoptions arranged by local authorities.

145. We do not think it would be possible to require a medical examination of the child before placing in cases not arranged by a local authority or an adoption society. We accordingly *recommend* that in direct or third party placings the child should have been medically examined within six months before the application is lodged.

146. Exceptionally, no medical examination of the child should be required when he is being adopted by his father or mother, or by a relative as defined in the Act.

AGE OF APPLICANTS

147. Many witnesses have advocated the imposition of an upper age limit for adopters, or a maximum difference of age between the adopter and the child. There are serious disadvantages in the adoption of a young child by persons who would be too old, or almost too old, to be the child's natural parents, and it might well be a convenience to adoption societies and to local authorities to be able to reject elderly applicants on the ground of age alone ; but all suggestions of a restrictive nature have to be considered against the possibility that further restrictions may tend to encourage the existence of *de facto* adoptions which can never be legalised. We are reluctant to recommend any measure which would be likely to have such an effect and thus undermine the value of the adoption law. We therefore make no recommendation for an upper age limit.

148. We have had our attention drawn to the extremely widespread granting of adoption orders in favour of grandparents, notwithstanding Mr. Justice Vaisey's observations in *Re D.X.* (*an infant*), on the need for caution in such cases. Grave dangers are inherent in a situation where a child is allowed to think that his grandmother is his mother and his mother is his elder sister. We wish to stress, where an adoption order is granted in such circumstances, the extra importance to be attached to ensuring that the child is brought up in full knowledge of the truth ; but in some cases the balance of advantage may lie in the direction of refusing such applications. In circumstances where grandparents bring up and desire to adopt a legitimate child both of whose parents are dead, we think that they would do well to consider the alternative possibility of being appointed guardians of the child, without disturbing the natural relationship.

149. We have considered also the existing provisions relating to the difference between the ages of adopters and of an adopted child. We entirely agree that a family containing adopted children should resemble the natural family in the age-range of its members ; it seems, however, that the requirement of a difference of twenty-one years is quite arbitrary, and that it sometimes gives rise to hardship. The cases we have in mind are those where foster-parents become attached to a child who has been boarded out with them for some years and desire to adopt him, but are unable to apply for an adoption order because neither of them is more than, say, eighteen or twenty years older than the child. Such a point would hardly have been considered at the time the child was boarded out, unless the boarding-out arrangement was made in the first place with the possibility of adoption in view. We prefer to rely on courts not to grant adoption orders in cases where the relative ages of the persons would make this unsuitable, and we therefore *recommend* that the requirement that the applicants must be twenty-one years older should be repealed. We should wish, however, to discourage adoption by those who are hardly likely to be mature enough to assume the responsibilities of adoptive parents ; and we *recommend* that except where the father or mother is a party to the

application all applicants must be at least twenty-one years of age and one of them at least twenty-five. A sole applicant (other than the father or mother) should, of course, have attained the age of twenty-five.

TELLING THE CHILD OF HIS ADOPTION

150. One point on which the witnesses we heard were unanimous was that an adopted child *must* be told that he is adopted or "chosen", and it was generally agreed that it is best not to wait until he is of an age to comprehend fully what that means, but to tell him so early that he can never remember a time when he did not know it. When a child is adopted at an age at which he can remember his former surroundings, it is equally important to explain the fact and meaning of his adoption without delay. Since many adoption orders are in respect of children below the age of three, however, it would not be realistic to recommend that the child must be told before the order is made, and it would not be desirable to create uncertainty as to the child's status by providing that the order would cease to have effect if the child were not told before he reached some specified age. We have had much evidence about the attitude of adopters to this matter, and we have been helped by a number of suggestions made by witnesses. It seems clear that in adoptions arranged by an adoption society or a local authority there is little likelihood that adopters will not have the importance of the matter explained to them. But a witness from one adoption society said that even the best adopters sometimes unwittingly reveal that they only pay lip service to the principle that the child must be told. For example, they say, "We shall be moving away from the district before he is old enough to go to school", or "Of course, we shall tell him when he is old enough". They do not realise that a young child will tend to take a simple explanation as a matter of course, and will probably not be distressed by it, whereas the longer they put off telling him, and the more attached they grow to him (so that they perhaps nearly forget that he is not their own natural-born child), the harder it will be for them to broach the subject, and the greater the likelihood that the child will find out from somebody else. We heard of a boy adopted at an early age, whose adopters for a long time felt that they could not bring themselves to tell him. When he was a schoolboy of fifteen or sixteen, however, his adoptive father at last plucked up courage to do so. The boy's reply was: "I'm so glad you've told me, Dad; I thought you didn't want me to know". The boy had been told by a schoolfellow a good many years before, but, providentially accepting the fact calmly, he kept the knowledge to himself. The adopters' fears of how the boy would react if they told him were quite groundless, and it is now just a family joke. Such a happy ending is by no means the usual outcome, however, for, as mentioned in paragraph 22, we have heard of a number of cases where the child has not found out the truth until adolescence, and the shock has been great enough to throw the child off his or her balance, leading to varying degrees of psychological disturbance, including running away, to delinquency and even occasionally to a severe mental breakdown. At best there is a serious risk of totally destroying the child's trust and confidence in the adults who have been deceiving him about his parentage until then. Adopters who seek to put off the disclosure indefinitely also forget that later on the child may need to apply for a birth certificate on his own account, and that this will inevitably reveal the fact of adoption.

151. All these possibilities should be, and no doubt are, explained to the adopters by the society or the local authority which does its work thoroughly, as it should also warn the adopters of the other—we hope less

usual—risk that if they have not brought up the child in the knowledge that he is adopted they may one day be tempted, in a moment of irritation, to tell the truth in a hasty or angry way. But in adoptions arranged privately the adopters generally do not have the benefit of any skilled advice, and we think that whatever means are available should be used in order to bring this matter to the notice of such adopters, who often have no idea that telling the child of his adoption is important.

152. We *recommend* that there should be an entry on the form of application for an adoption order to the following effect:

"We have told the child of this application to adopt him

and/or

We undertake to bring up the child in the knowledge that he is adopted."

153. When the second statement only applies, the adoption order should include a reference to the fact that the adopters have given this undertaking. We understand that it is already a practice in many courts for the Judge or Chairman of the Bench to enjoin the adopters to tell the child of his adoption. This is undoubtedly a most valuable but, unfortunately, not an universal practice. We therefore *recommend* also that a duty be laid on the court to satisfy itself before making an adoption order that the adopters have told or intend to tell the child of his adoption.

154. Many witnesses suggested that it would be of assistance if a printed memorandum on adoption generally were given by the court to the adopters. We think that consideration should be given to this possibility, and that if such a memorandum were to be prepared it should give special attention to advice about the time and method of telling the child.

INHERITANCE

155. The Tomlin Committee expressed the view in paragraph 19 of their Report that, in introducing a new system into English law, "it would be well to proceed with a measure of caution and at any rate in the first instance not to interfere with the law of succession . . ." and in paragraph 20 that "The adopting parent will only hold the position of a special guardian". Accordingly, they recommended that an adopted child should not have his position altered in any way in relation to succession, either as regards his natural family or as regards his adoptive family, but that the court which sanctioned the adoption should have power to require, if it thought fit, that some provision be made by the adopting parent for the child.

156. Effect was given to these recommendations by section 4 of the 1926 and 1930 Acts, subsection (2) of section 5 of the 1926 Act, and subsection (3) of section 5 of the 1930 Act. Section 5 (2) of the 1926 Act provided that "an adoption order shall not deprive the adopted child of any right to or interest in property to which, but for the order, the child would have been entitled under any intestacy or disposition, whether occurring or made before or after the making of the adoption order, or confer on the adopted child any right to or interest in property as a child of the adopter, and the expressions 'child', 'children' and 'issue', after the making of an adoption order, shall not, unless the contrary intention appears, include an adopted child or children or the issue of an adopted child". Section 5 (3) of the 1930 Act was similar.

157. These provisions operated inequitably as between natural and adopted children where an adoptive parent neglected to make a will specifically

naming the adopted child or children. Moreover, as the years passed they fell more and more behind the developing concept of adoption as meaning a child's entire integration in the adoptive family.

158. The 1949 Act therefore attempted to reverse the situation in England, so that adopted persons should be treated in the future, as far as possible, as children not of their natural parents but of the adopters for the purposes of the devolution or disposal of real and personal property. This was effected by the provisions which are now reproduced in the 1950 Act in sections 13 and 14 and, as regards intestacies which occurred or dispositions made between 1st January, 1950 and 30th September, 1950, in paragraph 4 of the Fifth Schedule. Under these provisions, an adopted person is (subject to necessary exceptions connected with hereditary titles, interests under existing entails, etc.) regarded for the purposes of inheritance as the child of the adopter born in lawful wedlock, both on an intestacy and (unless the contrary intention appears) in any will or settlement ("disposition") provided that the intestacy occurs, or the disposition was made:—

(i) after the commencement of the 1949 Act (1st January, 1950), and

(ii) after the making (whether before or after that date) of an adoption order in respect of him.

159. The first of these conditions appears to us to have been inevitable. Nothing could be done where a person had died before the 1949 Act came into force. Equally, it was impossible to presume that the intention in every will which had not yet become operative was to include adopted children where no express intention appeared. For example, an adoptive parent might have been required by the court to provide for the adopted child by a settlement (as recommended by the Tomlin Committee), while other testators may have deliberately decided to exclude persons adopted by their relatives. Legislation which retrospectively altered the meaning of the word "child" would have obliged all such persons to make fresh wills in order to give effect to their original intentions. This would have been an intolerable burden and was therefore out of the question.

160. The second condition, however, appears to us to operate inconsistently. In its application in the event of an intestacy (section 13 (1) of the Act) it includes all persons adopted before the relevant death. In its application to dispositions (section 13 (2)), however, it includes only persons adopted before the date of the disposition, and excludes all persons adopted between that date and the death of the testator. This still does not fully implement the principle of integration in the adoptive family. Further, it may involve discrimination between persons adopted by the same adopter, and for a testator who wishes to honour the principle it still remains necessary to provide expressly for any child who may be adopted in the future, or, alternatively, to make a new will whenever he or a beneficiary of his adopts a child. We therefore *recommend* that amending legislation should provide that in any disposition made after a specified future date the rules of construction in section 13 (2) should apply whether the disposition is made before or after the date of an adoption order. The present exceptions should, of course, be preserved.

ADOPTION WITH A PROSPECT OF LIVING ABROAD

161. The Horsbrugh Committee, which reported in 1937 (Cmd. 5499), in the course of its enquiry into the activities of adoption societies and "agencies" considered the arrangements for children to be taken or sent out of the country for adoption abroad, and made recommendations

affecting all such arrangements, whether by societies or by individuals. The Report illustrated how much more serious a failure in adoption is in its consequences to the child if the child has been adopted in a strange country than if the family lives in this country, and they seriously considered whether societies and others should be entirely prohibited from placing children with persons resident abroad. However, they decided that this would be too sweeping a prohibition; but the danger of placing children with foreigners resident abroad appeared to them to be so great that they recommended that transfers to such foreigners other than guardians or relatives of the child should be prohibited. In order that British people who were temporarily resident abroad should not be entirely debarred from adopting children, they recommended that transfers to British subjects should be allowed subject to a licensing system for those who were not relatives of the child. In making the latter recommendation they had in mind that to place children with British subjects temporarily resident abroad would not be to transplant them to an alien community, and that although the adopters would not normally be able to legalise the adoption, they might have an opportunity to do so when they returned to reside in the United Kingdom. The recommendation of the Committee was that the licensing system should follow the lines of that used for the licensing of children for employment abroad in theatrical performances; that is, that jurisdiction should rest with the Chief Metropolitan Magistrate and the magistrates at Bow Street Magistrates' Court. They envisaged that the court would see and examine all the parties, and that the requirements and procedure would be similar to those in ordinary adoption cases, save that in order to obtain publicity the hearings would take place in open court.

162. The recommendations of the Horsbrugh Committee relating to the transfer of children to persons resident abroad were embodied in section 11 of the Adoption of Children (Regulation) Act, 1939, and the Rules made thereunder; not, however, without some modifications. Section 11 of the 1939 Act now appears as sections 39 and 40 of the Adoption Act, 1950. Section 39 prohibits transfer to a foreigner who is not the guardian or a relative of the child, or, without a licence, to a British subject who is not the guardian or a relative of the child. Section 40 provides for the grant of licences to British subjects. Before granting a licence, the licensing authority must be satisfied by a report of a British Consular officer or any other person who appears to the authority to be trustworthy that the person to whom the child is to be transferred is a suitable person to be entrusted with the child and that the transfer is likely to be for the child's welfare. The consent of the parents is required, but may be dispensed with on the same grounds as those in the original 1926 Act. On the other hand the Act does not require the appointment of a guardian ad litem, and a licence can be granted without the attendance of the person resident abroad to whom it is proposed to transfer the child. There are also other respects in which these provisions do not seem to be what the Horsbrugh Committee intended, but in any event the analogy of employment abroad was perhaps not very happy.

163. It has always been a prerequisite for obtaining an adoption order that the applicants shall be domiciled in this country, and that the applicants and the child shall be resident here. The word "resident" is not defined by the statute, and we understand that until the decision of Mr. Justice Harman in *Re Adoption Application No. 52/1951* many courts had acted on the view that persons domiciled in England and Wales but working overseas were resident here during a period of leave, so as to qualify for the purpose of adopting children. In the case cited, however, it was held that a temporary sojourn during a period of leave fell short of "residence" within the meaning

of the Act. It is thus now impossible for adoption orders to be granted to persons in such circumstances, and the licensing system is the only method by which such persons can now have a child transferred to their care and take him overseas. This is much less satisfactory than an adoption order here would be, because it gives no security of status to the child: the "adopters" are not legally subject to the duties and obligations of parents, and could disown or abandon the child in a foreign country at any moment. Again, they do not acquire the rights of parents, and the natural parents could at any time recover the child if they were able to trace him; and since the address to which the child is going is known to the parents in these cases, there is always a fear that this might happen, though we have not heard of any case in which it has. The position naturally causes much uneasiness to the people concerned; this is the more understandable since the word "abroad" in the Adoption Act includes places so near to this country as Ireland, the Isle of Man and the Channel Islands.

164. The system of granting licences is not in all respects as satisfactory as we could wish. It is true that the parents' consent is carefully verified, either by requiring them to attend at Bow Street or by having them interviewed by a social worker such as a Probation Officer, and that the person who applies for the licence is invariably required to attend the hearing; but application for a licence need not be made by the prospective "adopters"; it may be made by any person on their behalf. The system thus enables children to be sent to persons resident abroad who do not attend the hearing in this country, and do not see the child until he has been conveyed to a foreign country and is there delivered to them, when there is no certainty that they will take to the child, or he to them. The child is not represented at the hearing, since there is no provision for a guardian ad litem; but enquiries are made (usually abroad, but sometimes only in this country) about the character and status of the proposed "adopters". We were told that in practice a good deal of reliance is placed on written reports and references produced by the applicants themselves from responsible people abroad who know the proposed "adopters" there. Such reports of necessity relate more to the social status of the persons than to their capacity to bring up children. Little use appears to have been made of child welfare services in the countries where the prospective adopters live.

165. The question of adopters who are likely to live abroad resolves itself into three parts. First, there are people, domiciled here but employed abroad, who wish to adopt a British child and to give him the full benefits of legal adoption. The great majority of this class will ultimately return to this country for good, by which time the child may well be over twenty-one, and therefore too old to be adopted. We have had evidence to show that many of them can arrange to stay in this country during periods of leave long enough for an application to be heard at least in one of the inferior courts after the present probationary period. If they cannot so arrange, we do not consider this a reason for making any exception in their favour, because we attach great importance to the probationary period. Next, there are persons, such as Commonwealth or United States servicemen and their wives, who are not domiciled in England or Scotland but live here for substantial periods (usually not less than two or three years), though they will ultimately reside elsewhere. Lastly, there are British people living overseas who make use of the existing licensing system to take away a child after a short visit to this country or to have a child sent to them without themselves coming here at all.

166. The contemporary conception of adoption as a means of providing a full and happy home life for a child who would not otherwise have that advantage, and not as something for the comfort and gratification of adopters,

however worthy they may be, has led to the introduction of the requirement that the child must live with the prospective adopters for a probationary period before an adoption order can be made. We agree with the view expressed by many witnesses that it would be wrong to permit children to go abroad for adoption without such a safeguard ; indeed it is doubtful whether anyone is suitable to adopt a child who cannot see that it is necessary for the child and the adopters to get used to each other before any decisive step is taken. At the same time, the advantages to a child of legal adoption, as opposed to mere transfer of care and possession under a licensing system (even with extended safeguards), are so great that we are strongly of opinion that any persons who are domiciled here, even though not " resident " in the sense in which that expression is now interpreted, should be enabled to obtain adoption orders if able to comply with the other statutory requirements. We think that domicile should be the basis of eligibility to apply for an adoption order here, because domicile is the basis of the jurisdiction of our courts in matters of personal status. The requirement of residence as well as domicile dates from the original Act, but now that in all cases a child has to spend a probationary period in the adopters' care under the supervision of a local authority it appears to be redundant. We therefore *recommend* that subsection (5) of section 2 should be repealed, and that sections 8 (1) and 9 (1) should be expanded to include a provision deeming that a person resident in another country is for the purposes of the application residing in the place where he declares his intention to live from the time he gives the local authority notice of his intention to apply for an adoption order until the order is made.

167. We refer in paragraph 179 to the need for both adopters to share the responsibilities of adopting a child. We have heard of cases in which a wife obtained an adoption order in respect of a child while her husband remained at his work abroad, but when she returned with the child it was found that he and his new father completely failed to take to one another. It is important to ensure that the guardian ad litem should have had enough opportunity to carry out his enquiries and to interview both applicants, and that the local authority should have been able effectively to perform its duties of supervision. It is no less important that the court should see both applicants. The Rules in England already provide that on a joint application the personal attendance at the hearing of one applicant may be dispensed with. This is a useful concession in cases of illness, but it should be most exceptional for the court to dispense with the presence at the hearing of an applicant who proposes to take a child abroad. We recognise that a court may sometimes consider it desirable to make an adoption order in a case where the male applicant cannot be present during the whole of the probationary period, but we *recommend* that in all cases he must have been with his wife and the child in this country for six weeks after the application has been lodged. Thus he would normally be present at the hearing.

168. We recognise that the retention of the domicile test involves the continuance of the anomaly that a mother who has lost her domicile by marriage or remarriage is unable to adopt her child in this country ; we do not think that this difficulty can be remedied but we suggest that it should be made clear that in such circumstances a mother needs no licence to take her child abroad. Provision should also be made to enable a child to be sent to a parent living abroad (who may no longer be domiciled here).

169. The abolition of the residence test for adoption orders involves a reconsideration of sections 39 and 40, which deal with the transfer of British children to persons resident abroad. We do not think it is realistic to

continue the requirement of a licence to transfer a child to Ireland, the Isle of Man, or the Channel Islands, since there is no control over travellers to these places and there is no means of enforcing the requirement. We have therefore come to the conclusion that there should be no restriction on the movement of children within an area composed of Great Britain, Ireland, the Isle of Man and the Channel Islands, to which we shall refer for brevity as " the British Islands ". On the other hand, we *recommend* that a licensing system should be maintained to regulate the transfer of children to destinations outside " the British Islands " and to enable persons within that area who are not domiciled in England and Wales or in Scotland to acquire a definite status in relation to a child transferred to their care.

170. We see no sufficient reason why licences should, as at present, be granted only to British subjects. We are confident that the licensing authority would not grant a licence to foreign nationals who could not show special reasons for their application. Also, we see no reason why licences should not be granted in some cases where the applicants are beginning a long temporary residence in this country.

171. The procedure should be similar to that required when application is made for an adoption order. The applicants should have to state a place at which they intend to live during the probationary period so that supervision can be given by one local authority until the licence is granted. A guardian ad litem should be appointed and required to make the fullest inquiries about the applicants from competent persons in their own country. Provision should be made for enquiries in Commonwealth countries, where there is no British consul. It should be necessary for both applicants for a licence to attend the hearing. They should, however, be eligible to lodge their application as soon as they have received the child into their care, so that the enquiries of the guardian ad litem (which may be protracted) can begin at once.

172. Since the present licence gives the prospective adopters no authority to act on behalf of the child, e.g., to consent to an emergency operation, we *recommend* that the new type of licence should vest in the applicants rights equal to those of a parent. The consents of parents and guardians (but not of any other person or body) should be required and should include consent to the vesting of equal parental rights in the applicants. Provision should be made for consent to be dispensed with in the same circumstances as we have recommended that consent to an adoption order may be dispensed with.

173. We recognise that our recommendations substitute a quite different conception of licensing from that in force at present under the Act, but we think that the evidence adduced to us inevitably leads to this result.

174. We have given special consideration to the exceptional position of prospective adopters where the husband is serving abroad in Her Majesty's forces. We understand that it may sometimes be possible for the husband to be present in this country for a period of six weeks, and thus to qualify for an adoption order in accordance with our recommendation in paragraph 167, but that more often he is unable to obtain sufficient leave to enable him to do so. We sympathise with the difficulties of prospective applicants in this position, but we do not think that it would be in the interests of the children, or fair to civilian prospective applicants resident abroad, to provide for any reduction of the requirements which must be complied with before an adoption order can be made, and we therefore make no recommendation. We draw attention, however, to the fact that section 50

of the Children Act, 1948, so amends the Guardianship of Infants Acts that any person may apply to be appointed guardian of a child who has no parents.

175. It has been represented to us that, as no appointment has been made under section 40 (6) (*c*), the only licensing authority in England sits at Bow Street ; and we were asked to consider whether licences might not be obtained from any court, or at least from selected courts outside London. Information supplied by the Chief Metropolitan Magistrate (which is reproduced in Appendix V) shows that a surprisingly small number of licences has been granted under the present provisions. There are great advantages in concentrating specialised work, particularly where there is not sufficient of it to provide adequate experience for several courts. We *recommend* that Bow Street should continue to have sole jurisdiction so far as England is concerned. We consider, however, that valuable help could be given, particularly in assessing the reports of the supervising authority and of the guardian ad litem, by lay magistrates experienced in the work of Juvenile Courts, and we *recommend* that in England and Wales the licensing authority should be the Chief Metropolitan Magistrate or one of the magistrates at Bow Street, assisted by two such Justices, of whom one should be a woman. In principle, this is in line with recent developments in London. We understand that such assistance is not generally available to Sheriffs in Scotland and we cannot, therefore, recommend any corresponding change in that country.

176. The guardian ad litem appointed by the licensing authority should, in conformity with our recommendations in regard to applications for an adoption order, be someone with suitable qualifications and experience. He should also be independent, that is, if a local authority has placed the child with the applicants that local authority should be prohibited from acting as guardian ad litem. We think that in this type of application, where so much is at stake for the child, duplication of visits has positive merits, and that it would be advisable, but not essential, for the guardian ad litem in every case to be unconnected with the local authority which has arranged for the visits to the applicants and the child during the probationary period.

177. We have heard disquieting evidence about children sent abroad for adoption by persons unknown to them. The position is not necessarily better when the persons concerned stay in this country a week or two and hasten away again with a child who has been entrusted to them on the strength of acquaintance gained during their short stay. We *recommend* that it should be an offence for any person (except a parent, guardian or relative of the child) to attempt without a licence to remove, with a view to adoption (whether *de jure* or *de facto*) a child from Great Britain to any destination outside " the British Islands " unless the child has entered Great Britain as a member of his household. We suggest that the appropriate authorities should consider whether, without undue interference with genuine travellers, it is practicable to empower the police at airports and seaports to prevent the departure of children reasonably suspected of being taken abroad for *de jure* or *de facto* adoption by persons other than guardians or relatives or the grantees of licences under the new provisions.

ADOPTION BY ONE APPLICANT

178. The Act does not allow an adoption order to be made in respect of a girl in favour of a man applying alone unless there are special circumstances, but a man may adopt a boy and a woman may adopt a boy or girl. Several witnesses have put forward the view that the restriction should be extended so as to prevent an adoption order being granted to any sole applicant except

in special circumstances. There are obvious reasons why it is undesirable for a child to be brought up without both a father and a mother. The normal family group enables a child to develop relationships with people of both sexes and to become accustomed to both the masculine and the feminine points of view. A child is at a disadvantage in relation to other children if he has no father, and it may be more difficult to provide him with the normal type of social circle. An unmarried woman who adopts a child cannot provide him with the normal pattern of home life. There is a risk that she may be over-devoted, and, if the emotional tie between herself and the child becomes too close, it may be difficult for the child to develop an independent attitude to life as he grows older. In later years the adopted child may be overburdened by having to shoulder the full responsibility for his adopter. Many widows, widowers and unmarried relatives bring up children successfully in spite of similar disadvantages, but this is no reason for unnecessarily exposing adopted children to these handicaps if suitable married couples are available. We hope these considerations will be borne in mind when adoptions are arranged, but we are reluctant to fetter the discretion of courts in this matter. There are many adoptions by a parent, relative or family friend, and a wide range of other circumstances, in which the advantages to the child may well outweigh the handicaps of adoption by a sole adopter.

179. We have also given much thought to a different type of case where, although a married couple are living together, one of them (usually the wife) has been the sole applicant for an adoption order. If such an application means that the child is only half-heartedly accepted in the home, an adoption order may lead to unhappy consequences for the child. Evidence has shown that the consequences may be equally unfortunate in the case of joint adoptions where one spouse has never really wanted the child. In both type of case we must rely on the discernment of the guardian ad litem and the discretion of the court. Applications by one spouse are made for a variety of reasons, and we are satisfied that in some of these cases it would not be for the welfare of the child to prohibit them.

180. A further type of case is that of adoption by one of a couple who are cohabiting. These cases arise most often when one of the persons is the father or mother of the child, as the motive for adoption is frequently to obtain for the child a birth certificate in the name by which he is known. The danger in such cases is that the mother loses all parental rights by allowing any other person (even the reputed father) to adopt the child. We think that the court should satisfy itself that this has been explained to the mother by the guardian ad litem, and that she fully understands and accepts the situation. In this type of case, and in those where one cohabitor seeks to adopt a child who is not related to either of them but has been in their care for a period of years, the risks must be considered in the light of the circumstances of each particular case, and the question whether the background is sufficiently stable and morally satisfactory to justify making an adoption order must be left to the discretion of the court.

181. We wish to record our firm conviction that, when an adoptive home is being sought for a child who has not formed any attachments to relatives or friends of his family, a married couple is likely to be the best choice. The Act refers throughout to " the applicant " in the singular, as if this were the rule rather than the exception. We think that the time has come for the emphasis to be altered so as to show that normally adoption is by a couple. We *recommend* that subsections (1) and (2) of section 1 should be transposed and amended accordingly, and that later references in the Act to " the applicant " should be to " the applicants ", which will include a sole applicant.

ADOPTION OF PERSONS OVER TWENTY-ONE

182. The 1930 Act provided, as did the 1926 Act, for the legalisation of existing *de facto* adoptions, but although in England the section was regarded as spent at the end of 1945 (when any person who had been adopted *de facto* for at least two years before the commencement of the Act would have attained the age of twenty-one) a different interpretation was put on the corresponding section in Scotland where the practice grew up of granting an order in any case where the conditions were fulfilled at the date of the commencement of the Act, even though at the date of the petition the "child" had attained the age of twenty-one, and even married. On consolidation the section in the Scottish Act could thus not be regarded as spent, and normally it would have been included in the consolidating Act, but it was undesirable that the corresponding section of the English Act should be re-enacted in the consolidating Act, because that would have implied that it was regarded as still in force in England. On the other hand, if it had been repealed and not re-enacted any possibility of arguing that it was not spent would have been removed. Accordingly, in order to ensure that the law was not being changed either in England or in Scotland, section 10 of each Act was excluded from the consolidation but left unrepealed.

183. This position obviously cannot be permitted to continue as it is. In 1954 it produces the anomaly that in Scotland a person of twenty-six or over can be adopted while one between twenty-one and twenty-six cannot. We do not believe that Parliament ever intended to provide for the "adoption" of persons of full age, and we *recommend* the repeal of section 10 both of the 1926 Act and of the 1930 Act.

ADVISORY BODIES

184. As the concept of adoption is still developing, we think that there should be some way by which the interested Government Departments should be able to keep in closer touch with the progress of thought and practice and to influence both administration and development by information and counsel. There are Advisory Councils on Child Care set up under sections 43 and 44 of the Children Act, 1948, to advise the Home Secretary and the Secretary of State for Scotland respectively on matters connected with the discharge of their functions under certain Acts relating to the provision by local authorities for the care of children deprived of a normal home life, including supervision under the Adoption of Children (Regulation) Act, 1939 (one of the provisions now contained in Part III of the Adoption Act, 1950 which we recommend in paragraph 63 should be transferred to the Public Health Acts). These functions, however, are administrative, and the Councils are not concerned with the judicial aspects such as the constitution and procedure of Juvenile Courts, nor have they been concerned with other matters arising under the 1926 or 1930 Acts. The fact that so much work connected with adoption is done by and on behalf of courts sharply differentiates it from the ordinary "child care" services, and we feel that it would therefore be inappropriate that the terms of reference of the Advisory Councils on Child Care should be extended to include the judicial aspects of adoption. We think that a better analogy is to be found in the advisory bodies set up to advise the Secretaries of State with regard to Probation, and we *recommend* the appointment of Standing Committees on the same lines to deal with all matters connected with adoption except the supervisory duties of local authorities, which should continue to be a matter for the Advisory Councils on Child Care. We envisage that these Committees would include County Court Judges (or Sheriffs) and Magistrates of Juvenile Courts, Clerks to Justices, members and officers of children's committees of local authorities, and representatives of registered

adoption societies. Such a broad basis of composition, especially if, say, one third of the membership were replaced annually, would bring to each Committee fullest information as to local practices and current ideas, so that the Committee could study any new development.

185. We recommend in paragraph 84 that in England the procedure in County Courts and Magistrates' Courts should be assimilated. We think that the same principle should as far as possible be applied as between Scotland and England. We *recommend* that it should be a specific function of the Standing Committees to make representations to the Rule-making authorities so as to keep the Rules and Acts of Sederunt up to date and uniform.

186. Further functions would be to maintain liaison and improve co-ordination between England and Scotland (as it is obviously desirable that both countries should proceed on the same lines), and to advise the respective Secretaries of State on the need for encouragement in areas where better ideas and practices, such as those which we have found important but not capable of statutory regulation, were not well established. We would add that we do not contemplate that these Committees should have any sort of central control or power of inspection.

PART III

OTHER RECOMMENDATIONS

1. PART I OF THE ACT

CARE AND POSSESSION

187. Several witnesses gave evidence about a difficulty which is experienced in the adoption of older children. Section 2 (6) (*a*) of the Act requires that the child must have been continuously in the care and possession of the applicant for at least three consecutive months immediately preceding the date of the order. Where the child is at boarding school or in residential employment, it would seem difficult, if not impossible, for him to be at home for three consecutive months immediately preceding the date not of the application, but of the order. A Scottish court, however, has held, in the case of a person who had been adopted *de facto* for years but was at the time of the hearing of the application for an adoption order living away from home except at week-ends, that she was, nevertheless, continuously in the applicants' care and possession ("A" petitioners). We agree that the term "care and possession", when applied to such cases, should mean no more than the kind of control normally exercised by a parent, and that there should be power for the court to make an adoption order if it thinks fit. It was suggested to us that the difficulty would be removed by the repeal of the words "and possession", but we attach importance, in the case of young children, to continuous possession. We therefore *recommend* that section 2 (6) (*a*) should be amended to read "in the care and, in the case of an infant under seven years of age, in the possession of the applicants. . . ." There must, of course, be adequate opportunity for the local authority to visit the child and the applicants and for the guardian ad litem to make his enquiries. We envisage that it would be open to the local authority or the guardian ad litem to ask for a longer or more continuous period in any case with which they were not completely satisfied.

APPLICANTS MOVING TO ANOTHER AREA

188. Doubt has arisen whether applicants who move to the area of another local authority during the probationary period can make their application without giving fresh notice under section 2 (6) to the second local authority and starting the probationary period over again. We do not think this was ever intended to be obligatory and we *recommend* that the subsection should be amended so as to make clear that the only notification which it requires is to the authority in whose area the applicants were living when they stated their intention to apply for an adoption order. Section 32 requires them to notify that authority if they change their address and, if they go to a new area, to notify the new authority also. This should operate so that applicants who have not yet lodged their application, and therefore must apply in the new area, can include the period of supervision by the former local authority towards the three months' probation required by section 2 (6) (*b*). We *recommend* that the Act should impose a duty on one authority to forward copies of its reports to the other authority, but we see no sufficient reason why the probationary period should have to start over again. If, when the case comes to be heard, the court for any reason thinks it necessary to require a longer period of supervision by the second authority, it can adjourn the case. This recommendation should be applicable even when the applicants move from England to Scotland or *vice versa*. Where an application has already been lodged of course the application would be dealt with, and the order made, by the court to which the applicants had applied, unless they chose to withdraw and start again, as they may be entitled to do if the court agrees that the removal constitutes a substantial change in circumstances.

REMOVAL OF CHILD BY PARENT

189. Subsection (4) of section 3 provides that while an application is pending in court a parent or guardian who has consented to the adoption cannot remove the child without leave of the court. We understand that this provision has proved of little value, because the parent who might otherwise on a change of mind have asked for the return of the child early in the probationary period (before the child and the adopters have had time to become deeply attached to one another) now waits until the hearing, when he or she is entitled to state his or her case. If the child is going to be returned, it is in his interests that this should be allowed as soon as possible. Moreover, the subsection only empowers the court to give the mother leave to remove the child ; it does not give any power to order the restoration of the child or to divulge where he is, so that, if the application has been lodged under a serial number, the leave of the court to remove the child is a dead letter. We think that it would be impracticable to provide means for ensuring the return of the child in such cases while the application is still pending and we therefore *recommend* the repeal of the subsection. If it were preserved, the following points would require attention :—

(i) Doubt has been expressed as to the meaning of the word " pending " ; we think it should be made clear that the prohibition should run from the time the consenting parent or guardian receives a prescribed notice that an application has been lodged in the court ;

(ii) In some quarters the subsection has been taken as forbidding the applicants to return the child to his mother even if they want to relinquish him. It should be made clear that no application to the court is needed in these circumstances ;

(iii) Our attention has been drawn to a case where the mother, who had signed a form of consent, removed, without the leave of the court, a child in respect of whom an application had been lodged. The subsection contains a naked prohibition, but a sanction against the parent who does this would be provided under our recommendation in paragraph 245 below.

190. It was suggested to us that a mother should be enabled to recover a child whom she had voluntarily placed for adoption through a third party where no application has been made and the third party refused to disclose the child's whereabouts. While we realise that much hardship may be caused in such cases we do not think it would be possible to provide for them in legislation.

191. We have been told of a few cases in which it is alleged that a mother has placed her child, ostensibly for adoption, though never intending to have him adopted, in order to have him cared for without payment. It has also been suggested that the mother who in such circumstances removes the child should be required to refund all the money expended on his maintenance, clothing, etc., by those whom she has misled. We do not think that the practice described, although a grave abuse, is sufficiently common to warrant any attempt at statutory control, quite apart from the difficulty of establishing what the mother's original intention may have been. We do not believe that as a rule it indicates any attempt at deliberate exploitation ; more often the mother seems to have acted in desperation, not knowing where to turn for advice and, if necessary, financial help. The liability to refund expenditure, on a (possibly lavish) scale over which she had no control, might make her feel that she could not exercise her undoubted right to reclaim the child, even if her circumstances had altered. Moreover, even if she were able to repay the money, it would only mean that she had so much less to spend on the child, who would therefore be the sufferer.

INTERIM ORDERS

192. We have heard of cases in which applicants to whom interim orders had been granted were under the impression that the orders were final, and took no steps to complete the adoption of their children. On the other hand, we have received evidence that the provision which allows the making of interim orders is useful, notwithstanding that there appears to be no method of ensuring that the applicants to whom such an order has been granted will return at the end of the period. We *recommend* that when a court has felt so doubtful whether an adoption order should be made that they have made an interim order supervision should invariably continue. This may remind the applicants that they have not been granted an adoption order. We suggest, however, that if the court does not fix a date for the postponed hearing when making the interim order, and if there is no reason to the contrary, it is the duty of the guardian ad litem towards the infant to remind the applicants, before the end of the period specified in the interim order, that they should apply to the court for final determination of the case. The present power of the guardian ad litem, or any respondent who so desires, to apply to the court should be limited to an application to dismiss the application for an adoption order.

193. We understand that doubt has arisen whether a court which has exercised its discretion under section 6 to make an interim order has any power to make a further interim order in respect of the same child. We think that

there can be no objection to more than one interim order being made so long as an aggregate of two years is not exceeded and we *recommend* that the section should be clarified accordingly.

JURISDICTION

194. We were told that doubt has sometimes been expressed whether inferior courts have jurisdiction to consider an application for an adoption order in respect of a child the marriage of whose parents has been dissolved (particularly if the decree included any order as to the custody of the child), or whether, by reason of the divorce proceedings, the High Court had become seized of the matter so as to attract exclusive jurisdiction. The judgment of Mr. Justice Davies in *Crossley* v. *Crossley* has now made it clear that inferior courts may entertain such applications, and, if thought fit, make adoption orders, without reference to the Divorce Court. We welcome this decision.

ADJUDICATION BY MEMBERS OF A LOCAL AUTHORITY

195. It has been submitted to us that it is not proper for members of local authorities who are magistrates to sit in an adoption case if the child has been placed by, or is in the care of, the local authority. We agree that there might be some appearance of prejudice if members of local authorities adjudicated in such cases, and we think that they should not do so.

STATUS OF ADOPTERS

196. It has been suggested to us that when an adoption order has been made the adopters do not necessarily become " parents " for all practical purposes since section 10 provides only that " all rights, duties, obligations and liabilities . . . in relation to the future custody, maintenance and education of the infant " shall vest in the adopters. This limitation dates from the time when an adopter was regarded as only " a special guardian " (see paragraph 155). This conception is now out of date, and we *recommend* the amendment of the section so as to give the adopters the status, with all the rights, duties, obligations and liabilities, of parents in relation to all matters concerning the child.

MARRIAGE

197. We see no reason to alter the provisions of subsection (3) of section 10 which forbids the marriage of the adopted person to the adopter, but does not prevent the adopted person from marrying a member of the adoptive family.

AFFILIATION ORDERS

198. Subsections (1) and (2) of section 12 provide that an affiliation order against the father of an illegitimate child, or any agreement under which he has undertaken to make payments for the benefit of the child, shall cease to have effect (but without prejudice to the recovery of arrears) when the child is adopted except by the mother being a single woman. It is, however, possible for a mother to commence proceedings for an affiliation order after the child has been adopted by others. Such proceedings can serve no useful purpose, and we *recommend* that it should not be competent to start affiliation proceedings after an adoption order has been made in respect of the child, unless it was made in favour of the mother.

199. Our attention was drawn to the last words of subsection (2) under which an affiliation order granted to a mother who subsequently adopts her own child ceases to have effect if she marries. This provision is obsolete now that a stepfather is no longer financially responsible for his stepchildren, and we *recommend* that it should be repealed. It should be open to the putative father to apply for discharge or variation of the order on the ground that the mother has married, but without prejudice to her right to apply in case of need for revival of the order or an increase of the amount payable under it.

INSURANCES

200. We are sure that the provisions relating to intestacies, wills and settlements in England were intended, as far as possible, to give adopted children all the rights and privileges of natural children, but we understand that doubt has arisen whether an insurance under the Married Women's Property Act, 1882, can be effected for the benefit of adopted children. We *recommend* that it should be made clear that it is possible.

ORIGIN OF ADOPTED PERSONS

201. (i) *Enquiries by the Adopted Person Himself.* The effect of the latter part of section 17 (4) is that an adopted person's origin cannot be traced in the Register of Births by means of the Adopted Children Register except when an order of the court is made for the Registrar General to furnish information from his confidential records which show the connection between the Register of Births and the Adopted Children Register. Such an order could apparently be made in favour of any person, but we have no evidence that the power is much used, and we assume that a court would normally only grant such an order to a person who could show that he had reason to think that he was closely concerned. The corresponding provision in Scotland is contained in section 19 (4), but this allows an adopted person who has attained the age of seventeen years to obtain particulars about himself direct from the Registrar General for Scotland without applying to a court. We have considered the evidence relating to this Scottish provision, and we find that there appears to have been no difficulty arising from the necessity to apply in person in Edinburgh. Most Scottish witnesses said that they would regret the repeal of the provision, but several recommended that the age at which an adopted person should be entitled to trace his origin should be raised to twenty-one. A number of witnesses in England thought that the adopted person has a right to this information, and expressed the view that it is not in the interests of adopted children to be permanently precluded from satisfying their natural curiosity. We *recommend* that this provision of section 19 (4) should be amended by raising the age at which an adopted person may apply to the Registrar General for Scotland to twenty-one. In England practical difficulties might arise from the introduction of a corresponding provision and we therefore do not recommend any amendment of section 17 (4). The court which made the original adoption order is described in an adopted person's " long birth certificate ", i.e., a certified copy of the entry in the Adopted Children Register relating to the adoption. We therefore *recommend* that the statute should enable an adopted person, both in England and Scotland, on reaching the age of twenty-one to apply to that court for a full copy of the adoption order, which would give as much information as the Registrar General would be able to supply from his records.

202. We have not overlooked that this recommendation might occasionally involve a risk of embarrassment for the natural mother of an illegitimate child,

if the adopted person went so far as to seek her out. We believe, however, that most adopted persons would be content with knowledge of their natural parentage, and would take no steps to make contact with their natural family —if, indeed, they could trace its present address—so that the risk would be slight, and, in any event, it is one which we think that a mother who offers her child for adoption should be prepared to take. It is, of course, one of the matters which should be explained to her when she consents to the adoption.

203. (ii) *Enquiries by Others.* We recognise that there may be cases in which other parties desire to trace a child's origin before he reaches the age of twenty-one. In order to remove doubt we *recommend* that the Act should specify that application in such circumstances may be made to the High Court, the Court of Session, or the court which made the order.

204. We understand that adopted persons or their adopters sometimes meet with difficulty because the original birth certificate or a copy of the adoption order is required by Government departments, schools and others. We strongly deprecate any insistence on knowing the origin of an adopted person. The Act lays down that the Registrars General shall not allow any person to obtain from their records information which might enable him to trace the origin of an adopted person, except in certain specified circumstances. We *recommend* that the Act should provide that no person shall be entitled to insist on knowing the names of the natural parents of an adopted person, except under a court order, and that a certified copy of an entry in the Adopted Children Register, which contains the names of the adoptive parents, should be accepted in lieu of a birth certificate for all purposes.

RECORDS OF ADOPTION

205. There are several respects in which the adopted person may suffer embarrassment because of the present provisions relating to the Adopted Children Register. We refer to these in detail below.

206. *Names.* We have been told that difficulty sometimes arises because courts insist on the repetition in the adoption order of Christian names if the child has been baptized. We understand that the Act deliberately refers to " names ", and not to " baptismal " names or " Christian " names, which the adoption order does not purport to alter ; the intention, with which we agree, was that the order should state the name by which the child is to be known, and, if the adopters choose to call the child by a new name, that, and that only, should be the name stated in the adoption order.

207. Similarly, some courts take the view that paragraph (*b*) of subsection (2) of section 18 requires them to alter the surname of the child, whether the adopters desire to do so or not. The adopters should be allowed to retain the original surname or to choose an entirely new one if they wish, and indeed there are cases in which one of these courses is most desirable.

208. In view of the doubt which appears to exist on these points, and the fact that considerable grievance is felt when unwanted names are inserted in an adoption order, we *recommend* that subsection (2) of section 18 should be amended so as to make clear that the name and surname by which the child is to be known after the adoption are the only name and surname to be inserted in the adoption order.

209. In Scotland there is no provision corresponding to section 18 (2) (*b*), although section 20 (2) provides, as does section 18 (2) (*a*), for the probable date of birth to be determined. The present Scottish form of petition provides for the child's surname to be changed to that of the adopters ; there

appears to be no provision for the original name to be retained or a new one chosen if desired, and we *recommend* that section 20 (2) should be amended to accord with the new form of section 18 (2).

210. We *recommend* that the power given in subsection (2) of section 21 to amend orders made before 1950 should be extended so as to permit the alteration of forenames to those chosen by the adopters.

211. In this connection we note that the Act has no provision for registering baptismal names given to a child after adoption in England, though such names may, within a certain time after the registration, be added to an ordinary entry of birth. We *recommend* that a similar provision should be made for new names to be registered when an adopted child is baptized.

212. *District of Birth.* The 1949 Act provided in England and Scotland that the country of birth should be added to the particulars previously recorded in the Adopted Children Register. We do not believe that there would be any appreciable risk of unauthorised disclosure of the child's origin if the district and sub-district in which his birth occurred and was registered were to be shown. We *recommend* that sections 18 (2) and 20 (2) and column 2 of the forms in the First and Second Schedules of the Act be amended accordingly. It may, of course, be impossible to state more than the country of birth of children born outside Great Britain, and provision should be made accordingly.

213. Considerable embarrassment may be caused to an adopted person whose place of birth is not precisely stated in the Adopted Children Register, either because he was a foundling, or because the registration of birth could not be traced. We have heard no complaint regarding the provision introduced in 1949 which requires the court to determine the exact date of a child's birth, and we *recommend* a similar provision to require a court to determine, when necessary, the probable district or (if not in Great Britain) country of birth, with provision on the lines of section 21 (2) for amending existing orders.

214. *Marking of Ordinary Birth Certificates "Adopted".* We have received evidence that some adopted persons prefer to use their original birth certificate, at any rate for certain purposes, and that they would prefer it not to be marked "adopted", which is the present practice, since the Act requires the original entry to be marked "adopted", and the extract reproduces the marking. We find no adequate ground for any change, even if an adopted child is re-adopted by his own parents. In view of section 10 (3) we think there is need to preserve evidence that the child was for a time adopted by other people, and we see no reason to differentiate between such children and those, for example, adopted by a widowed mother and her second husband.

215. It has been pointed out that the subsequent marriage of the natural father and mother may legitimate the child, so that a fresh birth entry can be made. Neither the Legitimacy Act, 1926, nor the Adoption Act provides for such an entry to be marked "adopted" and we *recommend* that provision should be made for this to be done, except when the adoption was by the natural father or mother alone (see also paragraph 247).

216. *Reproduction of Corrections in Certificates.* It appears from section 19 (6) that the Registrar General for Scotland has power to issue extracts from the Registers of Births and the Adopted Children Register with unacknowledged amendments, whereas there is no such provision in England. We *recommend* that the subsection relating to English registrations should be amended to accord with the effect of the Scottish subsection.

217. We *recommend* that provision should be made in section 21 (6) to cover amendments which may be made by way of addition, involving no cancellation, and for the omission of any marginal notes as to the date of or authority for the amendment.

218. *Rectification of Erroneous Records.* There is no provision for a person who discovers that his birth entry has been erroneously marked "adopted" to have the error corrected. We have no reason to think that this situation has arisen more than twice among the nearly 300,000 orders made, but we *recommend* that subsection (1) of section 21 should be amended to allow an application to the court by or on behalf of the person affected for rectification of the record.

219. *Duplicate Adoption Orders.* We were told of difficulty which has occasionally arisen owing to court records having been lost or being otherwise not available, and in order to provide against this we *recommend* that the Registrars General should be required, on the order of the court which made the adoption order, to issue copies of adoption orders. The applicant can ascertain which court made the adoption order by reference to the "long" extract from the Adopted Children Register.

220. *Adoption Orders made Abroad.* We were asked to consider the possibility of empowering the Registrars General to issue revised birth certificates in cases where persons born in Great Britain have been adopted elsewhere, so as to remove the difficulty in which such persons sometimes find themselves. We do not think it would be proper for the Registrars General of England and Scotland to act on adoption orders made outside England or Scotland, and we make no recommendation on this matter. The solution of the difficulty appears to lie in the hands of the countries concerned, who could, if they wished, provide a register of adoption orders made in their countries on the lines of our Adopted Children Registers relating to children adopted in England and Scotland, and issue birth certificates, based on the information contained therein, to persons adopted under their laws. This is already the practice in some parts of the Commonwealth.

2. PART II OF THE ACT

RESTRICTION ON MAKING ARRANGEMENTS FOR ADOPTION

221. The provisions of section 22 are not wholly satisfactory. We had evidence that subsection (1) is not entirely effective in preventing bodies which are not registered adoption societies from making or participating in arrangements for adoption. Sometimes such bodies make no attempt to deny that they are themselves making arrangements which appear to involve contravention of subsection (1); sometimes they claim, although the arrangement has every appearance of having been made by the body, that it has been made not by the body itself, but by one of its members or employees in an individual capacity. In the latter circumstances, the individual who is supposedly responsible gives notice as a third party under section 31 of the Act. We think that arrangements made by unregistered bodies or their employees are generally likely to be even less successful than the usual type of third party placing, which is discussed in paragraph 43 *et seq.* The personal knowledge of the people concerned, which is probably the only advantage the private third party placing can have, is inevitably absent in the type of case we have in mind, where an organisation simply acts as a go-between by introducing a mother who wishes to dispose of her child to someone who has expressed a desire to adopt a child. No enquiries

may be made, and there is a real danger that the prospective adopters may be persons who have failed to obtain a child from a local authority or an adoption society because they are unsuitable. Although their unsuitability should be discovered by the guardian ad litem if and when an application for an adoption order is lodged, this may be too late. The child may have settled down, and would suffer if transferred to what would have been a better home for him if chosen in the first place. It is preferable to prevent the creation of such situations. We therefore *recommend* that it should not be lawful for any body of persons, except a registered adoption society or a local authority, or for any person who has come to know of the parties by reason of his or her employment by a body of persons not registered as an adoption society, to make or to participate in making, or to attempt to make, any arrangements for or in connection with the adoption of an infant.

222. It was represented to us that there is ambiguity in the wording of subsection (3) of section 22. It has, on occasion, been taken to mean that evidence of the purpose for which the body exists is admissible only if given by a person taking part in the activities of the body, i.e., that the words "by any person . . ." refer back to "proof" and not to "things done or words written, spoken or published". We think that the intention was to provide that the evidence of any witnesses regarding the words or actions of any persons taking part in the control of the body, or making arrangements for adoption on behalf of the body, should be admissible as evidence against the body, and we *recommend* that the subsection should be clarified accordingly.

PLACINGS BY ADOPTION SOCIETIES AND LOCAL AUTHORITIES

223. Section 27 too requires extensive revision. We have recommended in paragraph 26 that local authorities should be subject to the same statutory requirements as adoption societies and this section should accordingly apply to arrangements made by a local authority, as well as to those made by an adoption society. In pursuance of our proposals in paragraphs 169 to 177, paragraph (*a*) of subsection (1) will require amendment to allow placing with persons to whom a licence could be granted, as well as with persons in whose favour an adoption order could be made. Paragraph (*b*) of subsection (1) must be read with sections 39 and 40, which are concerned, not (as stated in the marginal note) with sending children abroad for adoption, but with the transfer, even in this country, of British or Irish children to persons "resident" abroad—a class which since the judgment in *Re Adoption Application No. 52/1951* has been found to be considerably larger than had been supposed. The present law that an adoption society may not place a child with persons resident abroad unless a licence *has been* granted has two results: first, that the applicants must apply for a licence before they have had a chance of really getting to know the child and feeling satisfied that he will take to them and settle down with them, and, second, that only British or Irish children can be so placed, because there is no power to grant a licence in respect of any other child. Now that our law permits the adoption of non-British children, we see no reason why it should be impossible for licences to be obtained in respect of them. We *recommend* that the qualification that the child must be a British subject or a citizen of the Republic of Ireland should be repealed.

224. We further *recommend* that no person (including a parent, a local authority or an adoption society) should transfer, or permit, cause or procure or assist in the transfer of, the care and possession of any child, except for a temporary purpose, direct to any person normally resident outside "the

British Islands", or to any person whatsoever with a view to the child being taken to such a person, unless in either case the person resident outside "the British Islands" (*a*) is a natural or adoptive parent, guardian or relative of the child, or (*b*) is present in England or Scotland and could be granted an adoption order or a licence under our proposals. Persons domiciled here will be able to apply for an adoption order, and the amendment of sub-section (2) of section 27 recommended in paragraphs 28 and 41 should enable a local authority or an adoption society to recover a child placed by them with "non-domiciled" persons who fail to apply for, or to obtain, a licence.

225. We recognise that these recommendations do not close all the existing loopholes in the law, but we are convinced that it is better to make the procedure in proper cases easier for the normal law-abiding person to comply with than to devise a water-tight system which would inevitably impose an intolerable burden upon every traveller accompanied by a child.

3. PART III OF THE ACT

226. We have indicated in paragraph 63 that we consider that Part III of the Act is more appropriate to the Public Health Acts (and the corresponding Scottish provisions). The recommendations in paragraphs 227 to 230 will no doubt be considered when an opportunity arises for amending those provisions.

CONTINUANCE OF SUPERVISION

227. We recommend in paragraph 192 that where an interim order is made supervision should automatically continue; this will necessitate the removal of the words "or an interim order" from paragraph (*a*) of section 30.

228. It has been represented to us that there is misunderstanding in some quarters about the effect of paragraph (*a*) of section 30, which provides for supervision to continue if an adoption order is not made. We recommend in paragraph 68 that local authorities should have power to terminate supervision in suitable cases when an application lapses, and also that the "custodian" of the child should be entitled to apply for an order for supervision to cease. There may even be cases in which, when an adoption order is refused, the court could properly make an immediate order releasing the applicants from supervision.

NOTIFICATION OF CHANGE OF ADDRESS

229. We *recommend* that any notification of change of address to be given by a "custodian" on removal, or indeed any other notice under the Act, should be required to be in writing.

JURISDICTION IN SCOTLAND

230. Our attention has been drawn to the fact that subsection (1) of section 33 confers power on a court of summary jurisdiction, and subsection (2) on a justice of the peace. In its application to Scotland, however, subsection (4) provides for the jurisdiction conferred on a justice of the peace to be exercisable by a Sheriff, but does not provide for the sheriff court to exercise the jurisdiction of an English court of summary jurisdiction. We *recommend* that the subsection should be amended to show that in Scotland a sheriff court may make an order on an application under subsection (1) as well as on an application under subsection (2).

4. PART IV OF THE ACT

PROHIBITION OF PAYMENTS

231. Consolidation in 1950 brought into juxtaposition three provisions prohibiting payments in connection with adoption which show curiously dissimilar language and penalties.

232. Subsection (1) of section 37, which was originally section 9 of the 1926 Act, provides that "it shall not be lawful", except with the sanction of the court, for an adopter, parent or guardian to receive, or for any person to give them, any "payment or reward" in consideration of the adoption of an infant. No penalty is mentioned, but it is possible that in England an unlawful payment might involve a misprision punishable by fine and imprisonment at the discretion of the court, or could be the subject of a prosecution on indictment for a common law misdemeanour.

233. Under subsection (2) of section 37, which was originally section 7 (9) of the 1939 Act, any person who, in connection with any arrangements in which a third party participates, gives or receives any "remuneration or reward whatsoever" for placing a child of or below compulsory school age in the care and possession of a resident in Great Britain who is not "the" (*sic*) parent or guardian or a relative of the child, is "guilty of an offence under Part III of this Act", for which the penalty (section 35) may be six months' imprisonment or a fine of £50 or both. There is no exception from this subsection for payments sanctioned by the court and it would appear that in a "third party" case no "remuneration or reward whatsoever" should be paid to the guardian ad litem or a solicitor for professional services.

234. Under subsection (3) of section 37, which was originally part of section 9 of the 1939 Act, any person (not being a local authority) who makes arrangements for the adoption of an infant, and receives or makes any "payment or reward whatsoever" in connection with the making of the arrangements, "shall be liable on summary conviction" to six months' imprisonment or a fine of £200 or both. This subsection does not apply to payments sanctioned by the court, or to certain payments to or by an adoption society for the maintenance of a child. It does not penalise unsuccessful attempts to obtain money for arranging an adoption.

235. We see no advantage in the continuance of this diversity of language and of penalties, and, in our view, the rigidity of subsection (2) should be relaxed. Many adopters are anxious to refund to societies the cost of arranging the adoption, and we think that it is unreasonable that registered adoption societies should be obliged to send a representative to a court, perhaps at some distance, to ask for sanction to the repayment of out-of-pocket expenses incurred on behalf of successful applicants, and grossly unfair that they should be absolutely precluded from recovering any expenses incurred on behalf of persons who ultimately do not apply to the court for an adoption order. We therefore *recommend* that section 37 should be recast to provide that any person or body who makes or gives, or agrees to make or give, except to a local authority or registered adoption society, or (not being a local authority or a registered adoption society) receives or agrees to receive, or attempts to obtain, any payment, remuneration or reward whatsoever in connection, directly or indirectly, with the adoption or proposed adoption of a child, shall be liable on summary conviction to imprisonment for six months or a fine of £200 or both. The only exceptions which appear to us to be necessary are payments sanctioned by the court to which an application for an adoption order or for

a licence to transfer care and possession has been made. These would include such things as settlements on the child, expenses or loss of wages incurred by a respondent in attending the court, solicitors' remuneration for professional services, and the cost of the medical examination required by the Adoption Societies Regulations. This list is not meant to be exhaustive; we can envisage other payments which could properly be sanctioned by the court. On the other hand, while we feel that it is equitable for adopters who are able to afford to pay such costs to do so, we have no wish to place undue burdens on those of small means. We consider that an aggrieved applicant should have the right to ask the court to reduce the amount claimed.

236. In this connection we understand that different views are taken on the question whether payments may continue to be made to foster-parents after they have decided to adopt the child for whom they are caring, or at least after they have given notice of their intention to apply for an adoption order. Some people hold that such payments can continue to be made up to the date of an adoption order; while others interpret section 37 as precluding them. The latter interpretation accords with our view of what is right and we think that the statute should make the point quite clear, though one of us would be in favour of allowing local authorities (but no one else) to continue paying boarding out allowances in such cases if that has been their practice in the past.

ADVERTISEMENTS (SECTION 38)

237. We had evidence that the wording of section 38, relating to the prohibition of advertisements, needs strengthening. We agree that the use of the word "adopt" in subsection (1) may enable the intention of the Act to be evaded, and we *recommend* that consideration be given to redrafting the provision in such a way as to ensure that it prohibits the publication of any notice relating to the permanent transfer of a child away from his parents or guardians, other than to a school. We have not overlooked the fact that section 215 of the Public Health Act, 1936, and section 9 of the Children and Young Persons (Scotland) Act, 1937, permit the publication of an advertisement that a person will undertake or arrange for the "nursing and maintenance" of a child, provided it contains the person's name and address. This provides an obvious loophole, and we hope that the point may be considered if an opportunity arises to amend the "Child Life Protection" provisions.

238. Our attention was drawn to the existence of a certain type of insidious publicity which persons who wish to adopt a child sometimes obtain by means of letters printed in the correspondence columns of newspapers or magazines. It is true that such letters are usually published over initials or a pseudonym. We envisage that the publication of such letters, if they were in such terms as to indicate the writers' desire to obtain a child for adoption, would be prohibited by section 38 amended as we suggest. Our view that it would be undesirable for a member of the staff of a newspaper or magazine to participate in arranging an adoption by bringing together persons who had written to the editor will be apparent from our remarks in paragraph 221 above.

GRANT OF LICENCES

239. Probably by inadvertence, the 1939 Act provided, in what is now subsection (1) of section 40 of the 1950 Act, for a licence to be granted in the prescribed form (i.e., for the form of licence to be prescribed by regulations made by the Secretary of State); but rules with respect to the application

for, and grant of, licences are, by subsection (4) of section 40, to be made in England by the Lord Chancellor and in Scotland by Act of Sederunt. No doubt this anomaly will be rectified when opportunity arises.

DEFINITIONS

240. We *recommend* that the word " parents " should be defined so as to show that, in relation to a child born out of wedlock who has not been adopted or legitimated, it means the mother, to the exclusion of the father; and in relation to a child who has been adopted, means the adopters or last adopters, to the exclusion of the natural parents. Section 7 (2) could then be repealed.

241. We recommend in paragraph 58 that the term " welfare authority " should be amended throughout the Act to " local authority ".

242. We *recommend* that the word " abroad " should be defined as outside the area which we have described in paragraph 169 as " the British Islands ".

243. We understand that considerable difficulty over the meaning of subsection (2) of section 45 has been experienced; one school of thought regards the words " not being the parent or guardian of the infant " as enabling a parent or guardian to make arrangements for his child to be transferred for adoption to the care and possession of a person resident abroad: another school of thought argues from the words " a person shall be deemed " that, while a parent or guardian may not make arrangements, a person who is not the parent or guardian may not even enter into or make an agreement or arrangement for facilitating adoption, initiate or take part in any negotiations in respect of an arrangement for adoption, or cause another person to do so, without being brought within the scope of the provisions in Parts III and IV of the Act. We *recommend* that this subsection, if still necessary, should be clarified to show, in particular, that the restrictions on the transfer of children apply equally to arrangements made by a parent.

5. SUGGESTED ADDITIONS TO THE ACT

OFFENCES

244. We *recommend* that it should be an offence to make a false statement in writing on any document which is intended to be submitted to a court in connection with an adoption application. This includes, of course, the form of consent as well as the form of application. If this recommendation is accepted, the forms should bear an indication that a false statement may incur a penalty.

PENALTIES

245. We are reluctant to associate adoption with criminal offences by recommending fresh penalties, but as some provisions are not subject to any sanction, and among our recommendations are some which will require a sanction, we *recommend* that there should be a general penalty for violation of any provision of the Act, or condition imposed under it, where no penalty is otherwise provided.

ORDERS MADE WITHOUT JURISDICTION

246. A matter of some importance on which the Act is silent is the validity of adoption orders made without jurisdiction. We *recommend* that such an order should be treated as valid unless it is set aside on appeal (even if,

for example, "spouses" are afterwards found not to be married, or their marriage is annulled). We think, however, that this principle could not apply if an adoption order is invalid on the face of it; for example, when made in favour of two sisters. We *recommend* that provision should be made for application to be made to the High Court to have such an order discharged.

ANNULMENT OF AN ADOPTION ORDER ON LEGITIMATION

247. Our attention was drawn to section 29 of the Republic of Ireland Adoption Act, 1952, which provides that, in the case of the subsequent marriage of the natural parents of an adopted child, one of whom has adopted the child, the appropriate Legitimacy Act shall apply and the adoption order shall cease to be in force. While there may be something to be said for this in so far as the status of the child might be more satisfactory as a legitimated one than as an adopted one, it is evident that such a provision would lead to complications in some circumstances. For example, when the mother has adopted the child jointly with a third party, and that marriage has later been dissolved and followed by the marriage of the natural parents, the views of the third party would need to be taken into consideration. We understand that when an illegitimate child is legitimated by the marriage of his parents, the birth can be re-registered as legitimate, and it appears that this would be so, even though the child had been adopted by one of them. Furthermore, cases might arise in which a woman had adopted her two children, one of whom was capable of being legitimated, and the other not. In such a case the annulling of the adoption of one child only might be unfortunate. Nevertheless, we think that the variety of circumstances is so wide that the most desirable solution in one situation would be inapplicable in another. We accordingly *recommend* that where a child who has been adopted by one of his natural parents is legitimated by their subsequent marriage provision should be made enabling application to be made to the court for the adoption order to be annulled. We envisage that courts would have discretion whether or not to annul the order and thus would deal with each case on its merits. Provision should be made for the cancellation of the marking "adopted" in the Register of Births in cases where an adoption order in favour of a mother or father alone has been annulled on the ground of the child's legitimation.

INSERTION OF ADOPTERS' NAMES IN PARISH REGISTERS

248. We understand that local authorities and adoption societies rightly advise prospective adopters that they are not entitled, save in an emergency, to have the child baptized during the probationary period. It seems to be generally assumed, however, that when an adoption order has been made the adopters are "parents" for all purposes, including the entry of parents' names in the Registers of Baptisms. It appears that this is not so; section 10 shows that they are parents only "in relation to the future custody, maintenance and education of the child". In paragraph 196 we recommend the amendment of this provision. However, the present law in England relating to parish registers requires that the names of the child's natural parents should be entered in the register; an entry showing the adopters as parents would, therefore, seem to be illegal. It has been suggested that the proper course is for the incumbent to enter both the names of the natural parents and those of the adopters. Apart from the fact that this would make knowledge of the child's origin accessible to the public, and most adopters would not wish this to be done, there may be cases in which the child's original name is unknown. We *recommend* that provision should be made for an incumbent to register the child as "the adopted child

of . . .", without giving the names of the natural parents. Special provision will be necessary for the insertion of a woman's name as "father" of a child whom she has adopted alone.

APPLICATIONS IN RESPECT OF LEGITIMATED CHILDREN

249. It was suggested to us that when the natural parents of a child subsequently marry and then apply for an adoption order they should be advised, if the child has been legitimated by the marriage, that they may apply to the Registrar General to have a fresh entry of the birth made showing the child as legitimate. We agree that it is undesirable for adoption proceedings to be resorted to for the mere purpose of obtaining a birth certificate showing the child as legitimate when this can be achieved by much simpler means. We hope that Registrars of County Courts, Clerks to Justices and others who have to advise prospective applicants will bear this point in mind.

ENTRY OF CHILDREN FROM ABROAD

250. We were asked to consider whether any controls could be introduced to safeguard children who are brought to this country from abroad for legal or *de facto* adoption. Our attention was drawn to cases where children had been brought here under arrangements made privately by prospective adopters who were not always suitable. It is really impracticable to control the activities of individuals in foreign countries, however undesirable it may be for children to be brought here with a serious risk of remaining unadopted in a country where the language, customs and culture may be wholly unfamiliar. The making of any such arrangements by organisations which are not registered adoption societies is already prohibited by the Act, although, as we said in paragraph 221, the provision as it stands is not wholly effective. Where the prospective adopters make their own arrangements direct with an organisation or person in a country abroad, we can only hope that the provision we recommend in paragraph 50, that is, that the person who is to receive the child should be required to notify the local authority in advance, will provide a not inadequate safeguard.

NOTIFICATION OF PARENTS' CHANGE OF ADDRESS

251. It was suggested to us that every person whose consent is required before an adoption order can be made should be required to keep the local authority, or alternatively the adoption society by whom the child was placed, informed of his address until such time as an adoption order is made, in the same way as a parent whose child is in the care of a local authority is required by section 10 of the Children Act, 1948 to do. Although it would undoubtedly assist the work of the guardian ad litem, we think that owing to the varying circumstances in which adoption orders are sought, particularly the length of time which may elapse between the separation from the parent and the application for an adoption order, such a requirement would be extremely difficult to enforce.

6. PROCEDURE (ENGLAND)

NOTIFICATION TO LOCAL AUTHORITY OF INTENTION TO APPLY FOR AN ADOPTION ORDER

252. We *recommend* that a statutory form should be prescribed for notifying the local authority of intention to apply for an adoption order. A tear-off slip should be appended ; this slip should be signed by the local authority as a receipt, and returned to the prospective applicant, who should be required to attach it to his form of application. The form of application in the Rules should be suitably amended.

253. It has been suggested to us that the duties of the guardian ad litem specified in the Second Schedule to the Rules are concerned too much with material aspects and not enough with the more important emotional side. It may be that these witnesses have overlooked that the Second Schedule is headed "*Additional* matters subject to investigation and report by the guardian ad litem". There should be no doubt that the attitude of the adopters and the child to each other, and other emotional factors, should be inquired into under the Rule which runs: "It shall be the duty of the guardian ad litem to investigate as fully as possible *all* circumstances relevant . . .".

254. We were told of cases in which adoption orders had been granted to persons wholly dependent on national assistance, and the circumstances were such that it is difficult to believe that the courts making the orders were aware of the fact. The Rules require the means of the applicants to be enquired into, but we *recommend* that, in order to avoid the unfortunate situation which may arise when persons who are unable to support themselves apply to adopt a child, the Schedule should be amended so as to ensure that the source as well as the amount of the applicants' income is made known to the court.

255. Evidence was received that local authority health departments are not always consulted either by the department of the authority carrying out supervision duties or by the guardian ad litem (see paragraph 65). Similarly, we were told by a number of adoption societies that guardians ad litem do not always seek reports from the society which has placed the child. We should have thought that where young children are concerned the views of the health department are so obviously of value that they should invariably be laid before the court, as should the views of the adoption society which has placed any child, whatever his age. We understand that not all local authorities submit to the court a separate report as supervising authority; in those cases where the work of the guardian ad litem is carried out by a member of the children's department, which also supervises the child, the information gained and the views formed are incorporated in one report. Some local authorities do not appear to realise that, whether or not they are acting as guardian ad litem, they are entitled to submit a report as supervising authority; we do not, however, think it is necessary to require that the report from the supervising department on the results of its supervision should necessarily be contained in a separate report, except where the duties of guardian ad litem are undertaken by someone outside the children's department of the local authority (see paragraph 64). We *recommend* that the Rules should state that one of the guardian's duties is to obtain and place before the court a report from the health department or, if the child is of school age, from the education department, if the department concerned has any information about the child already in its possession. (A special enquiry at the school is undesirable, as being likely to cause embarrassment.) We *recommend* also that where the child has been placed by an adoption society it should be the duty of the guardian ad litem to submit to the court a written report from that society. It would then be unnecessary to require the guardian to interview the society in every case.

256. We hope that it is unnecessary to emphasise the importance of the present requirement to interview parents and referees. If this is neglected, such elementary duties as verifying their signatures cannot be carried out.

257. As a consequence of our recommendation that a third party who has taken any part in arranging an adoption should be made a respondent,

we *recommend* that the duty should be laid on the guardian ad litem of interviewing the third party, and enquiring (and reporting to the court) why he made or participated in making the arrangement, and what grounds he had for thinking that the adoption would be satisfactory.

258. Prospective adopters are not, of course, entitled to have the child baptized, except in an emergency, and then only in the original name, until the order has been made, but it is important, if an adoption order is made, that they should know whether or not the child has been baptized. It would probably be most convenient for this information to be obtained from the parent by the guardian ad litem, and we *recommend* that the guardian should have a duty of ascertaining, and informing the applicants, whether the child has been baptized and, if so, the date and place.

259. Similarly, information about vaccinations, etc., of the child should be available to the prospective adopters. We *recommend* that the guardian ad litem should have the duty of enquiring whether and, if so, when, the child has been vaccinated or immunised against smallpox, tuberculosis (i.e. B.C.G. immunisation), diphtheria and whooping cough, and of informing the applicants of the results of this enquiry.

260. A further duty with which we *recommend* that the guardian ad litem should be charged is that of ascertaining whether the child has been insured by his parents (or previous adopters) in order that both they and the applicants may have their attention called to section 11 (2) of the Act and that steps may be taken, if an adoption order is granted, to ensure that notice is given to the insurance company.

AGE AND UNDERSTANDING OF THE INFANT

261. Rule 7 (*c*) of the Adoption of Children (County Court) Rules, 1952, and Rule 7 (*bb*) of the Adoption of Children (Summary Jurisdiction) Rules, 1949, as amended by the Adoption of Children (Summary Jurisdiction) Rules, 1952, refer to the duty of the guardian ad litem to satisfy himself whether the infant is, or is not, *of an age to understand* the effect of an adoption order. The same phrase is used in Rules 11 and 9A of the County Court and Summary Jurisdiction Rules respectively. It differs from the wording of section 5 (1) (*b*) of the Act, which requires "that the order if made will be for the welfare of the infant, due consideration being for this purpose given to the wishes of the infant, having regard to the *age and understanding of the infant*". The difference is small but important, since the Rules seem to lend themselves to a more rigid interpretation than does the statute, and we *recommend* that the Rules should be amended to accord with the wording of the Act.

NOTICES TO RESPONDENTS

262. We had evidence that parents, adoption societies and local authorities do not always receive from the court notice of the lodging of an application in respect of a child in whom they are interested, or notice of the result of the hearing of such an application. They should, of course, be respondents to the application and the Rules require every respondent to have notice of the application and unless he is present at the hearing to be informed of the decision. We suggest that it might assist in ensuring that an adoption society is made a respondent if the form of application provided quite clearly for the name of the society concerned, if any, to be stated. As regards the result of the hearing, we *recommend* that a statutory form should be prescribed for the notification of the result of the

application to all respondents. This form should state only whether or not an adoption order or interim order has been made in pursuance of the application; it should not disclose the new name of the child. It should include also a statement with regard to the right of appeal which we have recommended in paragraph 133.

ATTESTATION OF CONSENTS

263. Where a consenting party is abroad, considerable difficulties are sometimes experienced in obtaining a valid document signifying his or her consent, and in order to be able to make an adoption order some courts have been constrained to go through the motions of dispensing with consents which are intended to be given. We think that there should be greater latitude, and that Rule 27 of the Adoption of Children (High Court) Rules, 1950, Rule 31 of the Adoption of Children (County Court) Rules, 1952, and Rule 33 of the Adoption of Children (Summary Jurisdiction) Rules, 1949, should be amended to permit attestation by any person authorised by law in the country concerned to administer an oath for any judicial or other legal purpose, a British consular officer, a notary public, or, if the consenting party is serving in one of Her Majesty's Forces, his or her commanding officer.

FEES

264. We understand that fees in Magistrates' Courts vary, but that County Court fees are laid down by the County Courts (Fees) Order, 1949. In the interests of uniformity, we *recommend* that fees in adoption proceedings in Magistrates' Courts should be standardised throughout the country at a nominal figure.

PAYMENTS BY ADOPTERS

265. The present form of application provides for a declaration that no payment in consideration of the adoption has been made to the applicants, but omits to mention what is nowadays a more likely possibility—that the applicants have made a payment to the parent from whom, or to the third party through whom, they received the child. We *recommend* that this item should be suitably amended.

APPLICANTS' MARRIAGE CERTIFICATE

266. The first of the additional duties of the guardian ad litem listed in the Second Schedule to the Rules is to ascertain (in the case of a joint application) how long the applicants have been married. We understand from witnesses who are experienced in guardian ad litem work that this is usually done by asking for a copy of the marriage certificate, but it would make the necessity of producing a marriage certificate more acceptable to applicants, and at the same time relieve the guardian ad litem of what may sometimes be a cause of embarrassment, if the applicants in Magistrates' Courts were required to attach a copy of their marriage certificate to their application, as applicants to the County Court have to do, and we *recommend* that this should be required by amendment of the Adoption of Children (Summary Jurisdiction) Rules, 1949.

SIMPLIFICATION OF THE FORM OF CONSENT

267. We heard much evidence to suggest that the form of consent is not worded in such a way as to enable it to be easily understood by all parents.

We *recommend* that it be simplified as far as possible, and, in particular, that these words should be added :—

"I understand that if an adoption order is made I shall have no right to see the child or to get in touch with him/her".

AFFILIATION ORDERS

268. We understand that it is a common practice for Magistrates' Courts, when an adoption order has been made, to notify any court which appears from the documents to have made an affiliation order in respect of the child. This point does not appears to be covered by Rules, however, and we *recommend* that it should be, so that in all cases the court concerned can be notified.

ATTENDANCE OF PARENT OR OTHER RESPONDENT

269. It was pointed out to us that the present form of notice provides for the parent or any other respondent to state whether he or she wishes to attend court to show cause why an adoption order should not be made. It gives no indication that a party who does not object but nevertheless wishes to attend court may do so ; the alternative items shown on the portion of the notice which is required to be detached and returned to the court appears to preclude the possibility of the attendance of a non-objecting party. We realise that in "serial number" cases there may be practical difficulty in ensuring that the parent neither meets nor is enabled to trace the applicants, but we think that the difficulty should be no greater than in "serial number" cases where a parent exercises his right to attend court to object to the making of an adoption order. We *recommend* that the form of notice should be amended so as to convey that a parent or other respondent may attend if he wishes.

CHANGE OF NAME IN RECORDS OF LOCAL AUTHORITY

270. We were told that cases often arise where distress is caused because the records of the local health authority, including the child's personal medical record card, are not amended to show the change of name which usually takes place on adoption. We *recommend* accordingly that the adoption order should be authority for any holder of records, except a registrar of births, to compile a new record showing the new name and omitting the old name.

FORM OF ADOPTION ORDER

271. We understand that embarrassment has sometimes been caused to adopted persons, because the order shows the names of the natural parents or parent, and may disclose illegitimacy, or a relationship between the child and the adopters. We therefore *recommend* that an order in the present form should be sent to the Registrar General, but a new form of order should be prescribed to be given to the adopters. This shortened form of order should contain no more than particulars of the applicants and of the child under his original name and new name, with the date and district (country, if outside England and Scotland) of birth (whether as proved or as adjudged to be probable), and a statement that the applicants are/applicant is of sufficient age, and that the required consents have been given or dispensed with. In pursuance of our recommendation in paragraph 270, we *recommend* that there should be a footnote to the order that the order is authority to supersede any existing records relating to the child, except the original registration of his birth, by substituting records in his new name.

7. PROCEDURE (SCOTLAND)

272. In Scotland the rules as to court procedure are made by Act of Sederunt. In general these rules are brief, and leave most details of procedure to the discretion of the court. We trust that the Scottish Rule-making authority will consider how far the recommendations we have made should be embodied in an Act of Sederunt.

273. In particular, the Rules in England provide for the service of notices on respondents, whereas in Scotland, following the usual procedure, copies of the application itself are served. This appears to involve unnecessary expense in a matter like adoption, as well as in certain cases, i.e., "serial number" cases, to be objectionable. We therefore *recommend* that it should be provided that notices intimating only the fact of the lodging of the application and a respondent's right to be heard should be sent to respondents. It might also be advantageous if the Act of Sederunt set forth the types of persons to be served with notices in its enacting provision and not only (as at present) in the appended form of petition.

8. ADOPTION SOCIETIES REGULATIONS, 1943

274. We *recommend* in paragraphs 25 and 26 that if local authorities are empowered to act as adoption societies they should be subject to regulation in the same way as are adoption societies. Provision should be made, either in the Third Schedule to the Act or elsewhere, for regulations to be made to control this aspect of the work of local authorities and we think that there is no reason why these regulations should not be on lines broadly similar to those which apply to adoption societies, though certain matters which must of necessity be dealt with in adoption societies regulations are not applicable to local authorities.

275. We understand that there is wide variation in the interpretation of the Adoption Societies Regulations, 1943, not only in regard to visiting, which we have already mentioned, but in regard to the methods of, and the degree of responsibility accepted by, the case committee. Some case committees apparently do little more than review the reports on the adopters and the child prepared by the worker who has placed the child, and confirm the arrangement made. We think that the case committee should take a more active part than this. They should be fully acquainted with the details of each case they are called upon to consider, and we *recommend* that the regulations should require the case committee to hear a verbal report by a committee member or worker who has interviewed the prospective adopters, in addition to considering a written report on the home and the replies of the referees. The regulations should also lay down in more detail what the constitution of the case committee should be; we *recommend* that they should specify that members must have enough suitable knowledge and experience to enable them to assess the case and that case committees should include both men and women. We *recommend* also that the regulations should require the annual report which the society must submit to the registration authority to state how often the committee has met.

276. The Adoption Societies Regulations, which were made when the Adoption of Children (Regulation) Act, 1939, came into force, were drafted to provide for the first registration of societies which were already making arrangements for the adoption of children. This is no longer appropriate, and the form of application for registration contained in the First Schedule should be amended.

277. We consider that there should be some control over the records of societies, and the use made of them. We do not doubt that most societies exercise a great deal of care, and we have certainly heard of no breaches of confidence. It may often be helpful for children to be reassured about their background, but we *recommend* that the records of adoption societies should be confidential, like those of courts, and that societies should be prohibited from giving the original name of the adopted person, or any information which would lead to it, which, under the existing law in England, is otherwise traceable only on a court order.

278. As an exception from this principle, we recommend in paragraph 201 that the adopted person should be enabled to trace his origin on reaching the age of twenty-one. If the law is altered accordingly, amended regulations might properly provide for the adoption society to have discretion to supply the same information (but only to the adopted person himself, and not until he is twenty-one years of age).

279. We *recommend* also that some provision should be made for the preservation of the records of an adoption society which for any reason ceases to function ; it would perhaps be most convenient if the local authority by whom the society was formerly registered would undertake the custody of their records in such a contingency.

9. ADOPTION OF CHILDREN (TRANSFER ABROAD) RULES, 1943

280. The Adoption of Children (Transfer Abroad) Rules, 1943, and the Adoption of Children (Transfer Abroad) (Form of Licence) Regulations, 1943, and the corresponding Scottish rules, will require revision if the recommendations in paragraphs 169 to 177 of this Report are accepted. We *recommend* that provision should be made for the application to be lodged, if desired, under a serial number, so that the natural parents of the child can be prevented from knowing the name and address of the persons to whom the child is being transferred. We think that parents ought to know the country of destination of the child, and the relevant forms should provide for this information to be shown. The form of application should be amended also to provide for joint applications, which we hope will be the almost invariable practice.

PART IV

CONCLUSION

MATTERS OUTSIDE OUR TERMS OF REFERENCE

281. We received some evidence about matters which, while they affect the adopted child in particular, really relate to children in general and therefore are not within our terms of reference since they could not appropriately be dealt with within the framework of a law relating to the adoption of children.

282. Perhaps the chief of these was the position of a person adopted *de facto* for years who, because for one reason or another his adoption has never been legalised, is unable to obtain a birth certificate in the name by which he is known. It was pointed out that this may cause much hardship from time to time throughout the person's life, and that it is not his fault if his " adopters " failed to legalise the position, or were unable to do so because they died before 1927 (or in Scotland 1930). We have much sympathy with persons who find themselves in difficulties for this reason and

we considered whether courts could be empowered to make "declaratory" adoption orders in respect of persons who had been adopted *de facto* for a number of years. Not only does it seem to us, however, that such a provision would present many practical difficulties, but since it would mainly benefit persons of adult years it appears to be quite outside our terms of reference.

283. We believe that in many cases a child is adopted by his grandparents because there is a parent living who, it is feared, may reclaim the child perhaps after he has been brought up by the grandparents for years. If it were possible for a guardianship order to be made in favour of the grandparents to the exclusion of the parent in such cases, this solution might well be more satisfactory than adoption.

284. A number of witnesses submitted that, since adoption is generally thought of as a transfer of the child to persons who are not related to him, the large number of adoptions in which a parent is one of the applicants should be dealt with by some other and simpler method, such as a fresh entry in the Register of Births. Where adoption is used merely in order to obtain a birth certificate in a new name, rather than to give parental rights to a stepfather or stepmother, this suggestion appears attractive at first sight, but the benefits of legal adoption could not be conferred by such a device and it would seem to open the question of the re-registration of births in many different types of cases, on which we feel it is no part of our province to comment.

SUMMARY OF PRINCIPAL RECOMMENDATIONS

285. The following is a summary of our principal recommendations:

Arrangement of Adoptions

(1) Local authorities should be specifically empowered to arrange, if they wish, for the adoption of any child, even if he is not in the care of the authority under the Children Act, 1948 (paragraph 24).

(2) Arrangements made by local authorities should be considered by a case committee, and should be subject to regulations similar to those applicable to adoption societies (paragraphs 25 and 26).

(3) A local authority proposing to place a child in the area of another authority should be required to consult that authority beforehand, and to notify it when the child has been placed. A similar requirement should apply to adoption societies (paragraphs 27 and 37).

(4) The present time-limit within which application must be made for an adoption order in respect of a child placed by an adoption society should be repealed, and provision made for the child to be withdrawn by, or returned to, the society at any time before an adoption order is made. A similar provision should apply to placings by local authorities (paragraphs 28 and 41).

(5) All third parties should be made respondents to the application and the form of consent should include a statement of how the parent heard of the adopters (paragraph 48).

(6) The number of days' notice which a third party who arranges an adoption is required to give should be extended to fourteen, and any person who is about to receive a child, except from a local authority or an adoption society, with a view to legal or *de facto* adoption should be required to give fourteen days' notice to the local authority (paragraphs 49 and 50).

(7) The terms of the provisions relating to placings by third parties should be strengthened (paragraph 51).

(8) Central and local health authorities should give priority to the provision of mother and baby homes (paragraph 57).

Probationary Period and Supervision

(9) The term "local authority" should be substituted for "welfare authority" in the Act; Part III of the Act should be repealed and all children who are to be legally adopted, or are adopted *de facto*, should be brought within the "Child Life Protection" provisions (paragraphs 58 and 63).

(10) The supervising authority's report should in every case be submitted to the court (paragraph 64).

(11) It should not be permissible to lodge an application until two months after the child has come into the adopters' home and no period before the child is six weeks old should count towards the probationary period (paragraph 66).

(12) A parent who applies for an adoption order should be entitled to lodge an application asking the court to dispense with notification to and supervision by the local authority (paragraph 67).

(13) Local authorities should be empowered to terminate supervision if they think fit and a "custodian" who no longer wishes to obtain an adoption order should be entitled to ask the court for an order terminating supervision (paragraph 68).

(14) Supervision should cease automatically if the child is legitimated by the marriage of his father and mother after one of them has applied to adopt him; and if he returns to his parents while he is still of school age (paragraph 69).

Guardian Ad Litem

(15) In England the Act should expressly provide for the appointment of someone entirely unconnected with the arrangements for placing the child (paragraph 73).

(16) The Act should be amended so that in England as in Scotland only a person, not a body, can be appointed (paragraph 74).

(17) The court should be required to appoint a person who is suitably qualified and experienced (paragraph 76).

Procedure

(18) Procedure in County Courts and Magistrates' Courts should as far as possible be assimilated. Specifically, Clerks to Justices should be enabled to appoint the guardian ad litem and to fix the date of hearing, and provision should be made for evidence by affidavit to be acceptable as evidence of facts in adoption proceedings in Magistrates' Courts (paragraphs 84 and 94).

(19) The Rules in County Courts and in Magistrates' Courts should provide for a guardian ad litem to be appointed, the date and time of hearing fixed, and notices issued, immediately the application has been lodged (paragraph 85).

(20) The applicants and the child should be required, save in most exceptional circumstances, to attend the hearing (paragraph 91).

Consents

(21) The form of consent should provide for a parent to certify that the birth certificate produced with the form relates to his child ; the form with such a certificate should be admissible as evidence of date and place of birth (paragraph 95).

(22) The form of consent should provide for the parent to state when he last saw the child and to whom the child was transferred (paragraph 95).

(23) The Rules should require the form of consent to be read over and explained to the mother before she signs it and the attestation should include a certificate that this has been done and that the blanks had been filled in before the form was signed (paragraphs 97 and 98).

(24) In England, only persons in the following categories should be enabled to attest a mother's consent: A County Court Judge, a Magistrate who is a member of the Juvenile Court Panel, a Registrar of a County Court or a Clerk to Justices (paragraph 99).

(25) In Scotland, only persons in the following categories should be enabled to attest a mother's consent: A Sheriff, a Magistrate of a Juvenile Court or a Notary Public (paragraph 100).

(26) The consent of the father of an illegitimate child should no longer be required ; in certain circumstances (which should be for the guardian ad litem to ascertain), he should be entitled to state his views to the court (paragraph 104).

(27) The Act should make clear that where a parent is himself an infant his own consent is required (paragraph 105).

(28) The guardian ad litem, if he thinks that the child is old enough to understand, should ensure that the prospective adopters have told the child about the application. The provision in section 2 (4) relating to the consent of the child in Scotland should be repealed (paragraph 107).

(29) Where the child of a married woman is registered as illegitimate, the Rules should allow Magistrates' Courts as well as County Courts to defer service of notice on the mother's husband if it is intended to prove that he is not the father (paragraph 108).

(30) The Act should make clear that a person or body having parental rights or liable to contribute to the child's maintenance is not required to consent but should be a respondent (paragraphs 110 and 111).

(31) The wishes of a deceased parent's next-of-kin should be taken into consideration (paragraph 112).

(32) The ground " unreasonably withheld " on which consent may be dispensed with should be repealed and a further specific ground added to enable a court to dispense with consent if the parent has made no attempt to discharge parental responsibilities. It should be made clear that consent withheld on the ground only that the identity of the applicants is not known may be dispensed with (paragraphs 120 and 121).

(33) Notice should be served on every person whose consent is required, even when the applicant asks for consent to be dispensed with (paragraph 122).

(34) The provisions relating to religious persuasion should be amended to allow a parent's consent to be subject to conditions as to the religious persuasion in which it is intended to bring up the child (paragraph 123).

Removal of Child

(35) When refusing an application for an adoption order a court should have power to direct that the child be brought before a Juvenile Court for consideration whether he is " in need of care or protection " (paragraph 128).

Appeals

(36) Provision should be made for appeal by way of rehearing ; the court hearing the appeal should have discretion to give judgment in open court (paragraphs 133, 135 and 137).

Medical Examinations

(37) All applicants for an adoption order other than the father or mother (and his or her spouse) should be required to undergo a medical examination by a doctor appointed by the court (paragraphs 141 and 142).

(38) In cases arranged by a local authority or an adoption society the medical examination of the child should be carried out before placing and a copy of the report should be submitted to the court. In " third party " and direct placings, the examination should be at any time within six months before the application is lodged and in cases of doubt the court should be able to order a further examination (paragraphs 143 to 145).

Age

(39) Applicants other than the father or mother should no longer have to be twenty-one years older than the infant but neither should be below twenty-one years of age and one of them should be twenty-five years old or more (paragraph 149).

Telling the Child of his Adoption

(40) The applicants should be required to undertake to bring the child up in the knowledge that he is adopted and the court should be required to satisfy itself that the adopters have told or intend to tell the child of his adoption (paragraphs 152 and 153).

Inheritance

(41) After a specified future date an adopted child should be treated as a child of the family for the purpose of succession to property whether the disposition was made before or after the date of the adoption order (paragraph 160).

Transfer Abroad

(42) The requirement of " residence " in this country should be repealed and an applicant who is domiciled here but normally lives abroad should be entitled to lodge an application on declaring an intention to live in a particular area from the time of giving notice under section 2 (6) (*b*) to the time when an adoption order is made. In all cases the male applicant should be present in this country for at least six weeks (paragraphs 166 and 167).

(43) The licensing system should be maintained in order to provide for the transfer of children to destinations outside " the British Islands " or to persons here who are not domiciled in England or Scotland. Licences should be issued only under safeguards similar to those required before an adoption order can be granted and should vest in the applicants rights equal to those of a parent (paragraphs 169 to 172).

(44) The licensing authority for England and Wales should continue to be the Chief Metropolitan Magistrate, but he should be assisted by two lay Justices (including one woman) experienced in the work of Juvenile Courts (paragraph 175).

(45) Transfers for ultimate residence overseas, other than as recommended, should be prohibited (paragraph 177).

Sole Applicants

(46) Section 1 of the Act should be amended so as to show that normally adoption is by a couple (paragraph 181).

Adoption of Persons over 21

(47) Section 10 of the 1926 and 1930 Acts should be repealed (paragraph 183).

Advisory Bodies

(48) Standing Committees with some new members appointed annually should be set up to advise the Secretaries of State and should have the specific function of making representations to the Rule-making authorities (paragraphs 184 and 185).

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286. We wish to record our gratitude to our Secretary, Miss J. M. Northover, for her invaluable help throughout our sittings and especially in relation to the drafting of this report. Her wide and accurate knowledge of the whole law governing infants—a tangled and intricate code—has impressed us all.

(Signed) GERALD HURST (*Chairman*).
M. E. EDWARDS.
J. G. HARRIS.
L. HOPKIN.
S. G. KERMACK.
DORIS M. ODLUM.
H. H. C. PRESTIGE.
MADELEINE J. ROBINSON.
H. M. ROWE.

J. M. NORTHOVER,
Secretary.
April, 1954.

APPENDIX I

SOURCES OF EVIDENCE

The following organisations and individuals gave evidence before the Committee:—

Organisation	*Represented by*
Association of Child Care Officers ...	Miss N. Gallup Mr. L. Wicks
Association of Children's Officers ...	Mr. K. Brill Mr. H. R. Irving Miss K. L. Ruddock
Association of County Court Registrars...	Mr. Registrar Bruce Humfrey, J.P., D.L.
Association of Psychiatric Social Workers	Miss D. E. Brown Miss I. J. M. Elkan Miss D. B. Tate
Dr. Barnardo's Homes	Mr. E. H. Lucette, M.C. Miss D. M. Dyson Miss G. E. Richards
City of Birmingham Children's Department	Mr. Ernest J. Holmes Miss May Slack
British Medical Association	Miss Annis Gillie, M.B., B.S., M.R.C.P. Mr. W. Hedgcock, M.D. Mr. J. B. S. Morgan, M.B., B.Ch., D.P.H. Mr. Kenneth Soddy, M.D., D.P.M. Mr. H. P. Tait, M.D., F.R.C.P.E., D.P.H.
Children's Aid Society	Lt.-Colonel H. Glanfield, O.B.E.
Church of England Children's Society ...	Mrs. Rupert Scott, O.B.E. Miss D. G. Hillier
Church of England Moral Welfare Council	Miss Ena M. Steel Miss J. Estcourt, J.P. Miss M. Walters
Church of Scotland Committee on Social Service	Reverend R. B. Notman Reverend Lewis L. L. Cameron, M.B.E. Miss Mary K. Cumming
Colonial Office	Sir Kenneth Roberts-Wray, K.C.M.G. Mr. A. R. Thomas, C.M.G. Mr. J. C. R. Buchanan, C.M.G., M.D., F.R.C.P., F.R.A.C.P.
County Councils Association	Colonel E. R. Clayton, C.M.G., D.S.O. Mr. E. Crewdson Mrs. M. H. Hichens, O.B.E. Mr. H. R. Irving Mr. S. Rhodes
Foreign Office	Mr. W. T. Harrower, I.S.O., M.B.E.
General Register Office	Mr. H. M. Fletcher Mr. F. Dunnill

Organisation	*Represented by*
General Registry Office of Births, Deaths and Marriages (Scotland)	Mr. J. C. Young
Home Office	Miss W. M. Goode Mr. T. C. Weiler Mr. C. P. J. Ruck
Justices' Clerks' Society	Mr. Ralph Sweeting Mr. G. Stanley Green
Law Society of Scotland	Mr. J. M. Aitken Mr. Colin Brown Mr. R. B. Laurie
London County Council	Mr. Donald Ford Mrs. H. Halpin, J.P. Mr. E. Ainscow Mr. A. J. Shove Mr. D. Carr Mr. V. H. Alley Mr. W. M. Calder Mr. G. Foreman Miss A. Durst
The Magistrates' Association	Mrs. I. M. H. MacAdam, J.P. Mrs. H. A. Adrian, J.P. Alderman J. MacColl, M.P., J.P. Miss B. de Blank
Medical Women's Federation	Mrs. Sylvia Guthrie, M.D., M.R.C.P. Miss Margaret Methven, M.B., Ch.B., D.P.M. Miss Margaret Reed, M.R.C.P. Miss Albertine Winner, O.B.E., M.D., M.R.C.P.
Ministry of Health	Miss Rachel Elliott, M.D., D.P.H. Miss I. G. H. Wilson, M.D., F.R.C.P., D.P.M. Mr. D. Emery
National Adoption Society	Miss Helen Blackburne, M.B.E.
National Association for Mental Health...	Miss Eileen Younghusband, M.B.E., J.P. Mr. John Spencer, J.P. Miss Robina Addis
National Association of Probation Officers	Mr. Frank Dawtry Mr. D. H. T. Jones Miss F. M. Stone
National Children Adoption Association	Mrs. D. C. Plummer
National Council for the Unmarried Mother and Her Child	Dame Mary Welsh, D.B.E. Mr. Leonard Schapiro Miss Isabelle H. Granger
Royal College of Nursing	Mrs. A. A. Woodman, M.B.E. Miss E. M. Wearn Miss H. Howse, M.B.E. Miss M. K. Knight

Organisation	*Represented by*
Royal Medico-Psychological Association (Scottish Division)	Mrs. Jean Biggar, M.B., Ch.B. Miss Margaret Methven, M.B., Ch.B., D.P.M. Miss Jessie Sym, M.D., D.P.H.
Scottish Association for the Adoption of Children	Mrs. Walter Mercer Miss E. White
Scottish Children's Officers' Association...	Mr. R. Brough Mr. Thomas Johnstone Miss Amelia Sinclair
Scottish Council for the Unmarried Mother and Her Child	Miss Anne Ashley Miss M. Swann
Scottish Counties of Cities Association ...	Councillor W. O. Drummond Bailie Mrs. K. M. Cameron, B.E.M. Mr. R. Brough
Society of Medical Officers of Health ...	Miss Dorothy Egan, M.R.C.S., L.R.C.P., D.P.H. Miss Ann Mower White, M.R.C.S., L.R.C.P., D.P.H. Mr. S. R. Bragg
Women's Help Committee	Miss C. MacKenzie
Women Public Health Officers' Association	Miss S. Briggs Miss F. E. Lillywhite Miss A. Shaw Miss B. F. H. Townsend

Mr. L. Banwell, Chief Clerk, Metropolitan Juvenile Courts
Mr. John Bowlby, M.D.
Professor J. Boyd
Mr. J. H. Craine, Chief Clerk, Bow Street Magistrates' Court
Sir Laurence Dunne, M.C., Chief Metropolitan Magistrate
Mr. F. G. Hails, Clerk to the Justices, Petty Sessional Division of Nuneaton
His Honour Judge Neal, M.C.
Mr. J. F. Whyte
Mrs. Barbara Wootton, J.P.

Memoranda were also submitted to the Committee by:—

Association of County Councils in Scotland
Association of Municipal Corporations
Association of Sheriffs Substitute
Association of Workers for Maladjusted Children
British Paediatric Association
Catholic Enquiry Office, Glasgow
Family Welfare Association
Foundling Hospital
Guild of Service for Women
Hampshire County Council
Medical Inspectorate, Children's Department, Home Office

National Association for Maternity and Child Welfare
National Children's Home
National Council of Women of Great Britain
National Joint Committee of Working Women's Organisations
National Vigilance Association of Scotland
Oxfordshire County Council
Scottish Branch of the Association of Psychiatric Social Workers
Scottish Council of Social Service
Scottish Standing Committee of the National Council of Women
Soldiers', Sailors' and Airmen's Families Association
Mr. C. L. Berry
Professor Norman Capon, M.D., F.R.C.P.
Mr. L. H. Crossley, Clerk to the Justices for the Petty Sessional Division of Uxbridge
Mr. J. M. L. Evans, M.B.E., Official Solicitor
Mr. J. A. Fraser Roberts, M.D., D.Sc., F.R.C.P.
Mr. W. F. S. Hawkins, Master of the Supreme Court of Judicature, Chancery Division
Professor R. S. Illingworth, M.D., F.R.C.P., D.P.H., D.C.H.
Mrs. M. L. Lampard
Professor D. R. MacCalman, M.D., M.R.C.P.E.
Mrs. F. Charlotte Naish, M.D.
Mr. John Nash
Miss Penelope Phipps
His Honour Judge Rawlins
Miss M. O. Spon
Miss L. Shaw
The Hon. Mr. Justice Upjohn, C.B.E.
His Honour Judge Whitmee
His Honour Judge Willes

APPENDIX II

STATISTICS OF ADOPTION ORDERS

(1) Year	(2) England: High Court	(3) England: County Courts	(4) England: Courts of Summary Jurisdiction	(5) Scotland	(6) Total
1927	133	184	2,626	—	2,943
1928	124	236	2,918	—	3,278
1929	72	224	2,998	—	3,294
1930	74	317	4,120	3	4,514
1931	68	274	3,777	347	4,466
1932	38	264	4,163	492	4,957
1933	61	262	4,201	437	4,961
1934	45	290	4,421	602	5,358
1935	64	342	4,438	683	5,527
1936	62	372	4,746	704	5,884
1937	78	413	5,056	820	6,367
1938	85	446	5,662	812	7,005
1939	65	635	6,126	1,100	7,926
1940	59	645	7,071	1,424	9,199
1941	44	709	6,676	1,222	8,651
1942	55	1,153	9,201	1,563	11,972
1943	57	1,504	9,987	1,747	13,295
1944	58	1,928	11,041	1,681	14,708
1945	52	2,622	13,645	1,876	18,195
1946	166	3,815	17,291	2,292	23,564
1947	183	3,663	14,409	1,890	20,145
1948	170	3,962	14,408	2,073	20,613
1949	199	4,337	12,781	1,764	19,081
1950	152	3,448	9,139	1,289	14,028
1951	114	3,757	9,979	1,562	15,412
1952	74	4,280	9,540	1,515	15,409

Note—A very small number of orders are in respect of more than one child, so that the number of children adopted is slightly higher than the figure shown in column (6).

In Scotland, apart from a few orders made by the Court of Session, all orders have been made by Sheriff Courts. None has been made by a Juvenile Court.

APPENDIX III

MEDICAL EXAMINATION OF THE APPLICANTS

(Where a joint application is made, an examination of each applicant is required)

Matters on which information should be obtained:

Name..... Age..... Occupation.....

Address.....

A. Whether the applicant has suffered at any time from:—
   (1) Any nervous or mental disorder
   (2) Fits of any kind
   (3) Tuberculosis

B. Whether he/she is now in good health

C. Whether there is any relevant family history of mental or physical disease

D. Whether there is any detectable abnormality in the
   (1) Cardio-vascular system (including blood pressure)
   (2) Respiratory system (including chest X-ray if thought desirable)
   (3) Genito-urinary system (including urine tests for sugar and albumen)
   (4) Alimentary system
   (5) Central nervous system
   (6) Skin
   (7) Eyes
   (8) Ears and hearing

   If so, give particulars

E. General opinion of examining doctor in regard to the applicant's
   (1) Physique
   (2) Mental and emotional stability
   (3) Psychological suitability to adopt a child

F. Whether there is any reason to expect that the applicant's health may deteriorate before the child has reached the age of independence.

Signature..... Date of Examination.....

Qualifications .....

APPENDIX IV

MEDICAL EXAMINATION OF THE CHILD

Matters on which information should be obtained:

Name..... Sex.....

Date of Birth.....

Weight at date of examination.....

A. Whether there is any detectable abnormality in the:—
   (1) General appearance
   (2) Cardio-vascular system
   (3) Respiratory system
   (4) Genito-urinary system
   (5) Alimentary system, including teeth
   (6) Central nervous system (e.g., fits)
   (7) Skin
   (8) Eyes
   (9) Ears and hearing

   If so, give particulars

B. Whether the child appears mentally and physically normal with regard to his age and weight

C. Details of any illness from which the child has suffered

D. If known,
   (1) Weight at birth (if child is still under one year of age)
   (2) Particulars of confinement, including result of mother's Wasserman test
   (3) Whether the child has been vaccinated or immunised against:
      (*a*) Tuberculosis
      (*b*) Smallpox
      (*c*) Diphtheria
      (*d*) Whooping Cough

E. If the result of a Wasserman test on the mother is not known, or is positive, the result of a Wasserman test on the child should be stated.

Signature..... Date of Examination.....

Qualifications .....

APPENDIX V

INFORMATION SUPPLIED BY THE CHIEF METROPOLITAN MAGISTRATE REGARDING LICENCES TO TRANSFER CHILDREN ABROAD

PART A—APPLICATIONS RECEIVED

Year	Number of Applications	Licences Granted	Otherwise dealt with
1944	3	1	2 not necessary
1945	7	6	1 not necessary
1946	33	25	7 not proceeded with 1 refused
1947	30	28	2 not proceeded with
1948	42	39	1 not proceeded with 2 withdrawn
1949	122	111	5 refused 5 not proceeded with 1 withdrawn
1950	104	95	5 not proceeded with 4 withdrawn
1951	96	91	3 not proceeded with 1 withdrawn 1 refused
1952	106	104	1 not proceeded with 1 withdrawn
TOTALS ...	543	500	43

SUMMARY

Number of applications	543
Licences granted	500
Not proceeded with or withdrawn	33
Not necessary	3
Refused	7

PART B—COUNTRIES TO WHICH CHILDREN WERE TAKEN OR SENT

Place	1944	1945	1946	1947	1948	1949	1950	1951	1952
Argentina... ...	—	—	—	1	—	1	—	2	—
Australia	—	1	—	7	13	4	4	5	1
Barbados	—	—	—	—	—	1	—	1	—
Bermuda	—	—	—	—	—	1	—	1	—
British East Africa	—	—	—	—	—	1	—	—	—
British West Indies	—	—	—	—	—	1	—	—	4
Canada	1	2	9	4	9	5	—	3	3
Cape Verde Islands	—	—	—	—	1	—	—	—	—
Ceylon	—	—	2	—	—	2	1	1	2
Colombia ...	—	—	—	—	—	1	—	—	—
Costa Rica ...	—	—	—	—	—	1	—	—	1
Eire	—	—	1	—	1	—	2	—	2
Egypt	—	—	—	1	1	—	—	—	—
Falkland Islands...	—	1	—	—	—	—	—	—	—
France	—	—	—	—	—	—	—	—	1
Germany	—	—	—	1	—	1	3	4	2
Gibraltar	—	—	—	—	1	—	—	—	—
Guernsey ...	—	1	1	2	1	2	1	1	2
Herm (Channel Is.)	—	—	—	—	—	—	—	—	1
Hong Kong ...	—	—	—	—	—	—	—	—	1
India	—	—	—	—	—	—	1	—	5
Isle of Man ...	—	—	—	—	—	—	1	—	—
Italy	—	—	—	—	—	1	—	—	—
Jamaica	—	—	—	—	—	2	—	1	—
Jersey	—	—	—	—	—	—	—	4	—
Kenya	—	1	2	—	1	1	—	—	10
Malacca	—	—	—	—	—	1	—	—	—
Malaya	—	—	—	1	—	—	—	—	3
Malta	—	—	1	—	—	—	—	—	—
New Zealand* ...	—	—	2	—	—	63	67	46	34
Nigeria	—	—	—	—	—	1	—	1	4
Northern Ireland	—	—	2	—	2	2	3	—	2
Northern Rhodesia	—	—	—	1	1	1	—	2	3
Nyasaland ...	—	—	—	—	1	—	—	—	1
Norway	—	—	—	—	—	1	—	—	—
Pakistan	—	—	—	—	—	—	—	1	—
Papua	—	—	—	—	—	1	—	—	—
Persia	—	—	—	—	—	—	1	—	—
Peru	—	—	—	—	—	—	—	—	1
Singapore... ...	—	—	—	—	—	1	—	—	2
South Africa ...	—	—	2	3	1	2	1	4	4
Southern Rhodesia	—	—	—	4	3	3	4	7	10
South West Africa	—	—	—	—	1	—	—	—	—
Tanganyika ...	—	—	—	—	—	—	—	2	—
Tasmania ...	—	—	—	—	—	2	—	—	—
Trinidad	—	—	—	1	—	1	—	2	1
Tripoli	—	—	—	—	—	—	1	1	—
Uganda	—	—	—	—	—	—	—	—	1
United States of America	—	—	3	2	1	7	4	2	3
Uruguay	—	—	—	—	1	—	1	—	—

* *Note:* From 1949 to 1952 a special child emigration scheme (for which licences were required) was in operation.

APPENDIX VI

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