RE N (A MINOR) (ADOPTION)

Family Division

Bush J

16 March 1989

Adoption – Black child placed with white foster-parents – Foster-parents applying for adoption order and for consent of mother to adoption to be dispensed with on the grounds that it was unreasonably withheld – Natural father applying in wardship proceedings for care and control of child – Factors to be considered.

The child was born in April 1984 of Nigerian parents who were not married. Three weeks after the baby's birth the mother placed her with white foster-parents by way of a private fostering arrangement, initially for 2 weeks, and went to the USA where the father was living. Apart from one visit to the child in England in 1985 she remained in the USA thereafter, though she did not live with the father. The father took an interest in the child from her birth, sent her money and clothing and sought consistently to have the care of her. In September 1985 it was arranged for the foster-mother to take the child to the father in the USA, but there was difficulty about obtaining a visa for her and in July 1986 he telephoned the foster-parents to say he would not be able to have her. In October 1986 the foster-parents notified the local authority of their intention to apply to adopt her. In November 1986 there was a change in the US law whereby US fathers of illegitimate children could get visas to bring the child to the USA, and in January 1987 the father was sworn as a United States citizen. In September 1987 he was told that a visa for the child was available. That visa was suspended by the US authorities because of the foster-parents' notice of intention to adopt. The foster-parents applied for an adoption order and for leave to dispense with the mother's consent on the ground that it was being unreasonably withheld. The father made an application in wardship, in which he was supported by the mother, for care and control of the child and leave to take her out of the jurisdiction. Both applications were heard together. At the hearing there was evidence that the child was happy with the foster-parents and emotionally bonded to them. There had been eight access visits by the father in the 3-month period leading up to the issue of the application in wardship and the visits had seriously disturbed the child, partly because she had been told that the father wanted to take her away from the foster-parents. On the other hand, there was evidence in support of a doctrine that black children should never be placed with white foster-parents.

Held –

(1) The doctrine that black children should never be placed with white foster-parents derived from the political approach to race relations in the USA in the 1960s and 1970s. It was unsupported by any real evidence but had nevertheless been accepted by most local authorities concerned with the fostering of children. The mischief that an unquestioning application of that approach had engendered, involving as it did the emphasis on colour to the exclusion of other matters important to the security and welfare of children, had been clear to the Family Division of the High Court for some time. Notwithstanding the difference in ethnic background between the foster-parents and the child, all the evidence in the present case led to the conclusion that separation from the foster-parents would be cruel to the child and likely to cause serious psychological damage both at present and in the future, and that, therefore, she should remain where she was.

(2) However, there was no concept of adoption in Nigerian society, where it was the normal cultural pattern for children to be brought up by others. The shame

and distress that in the natural father's culture an adoption order would bring to him and the consequences of that for the child had to be weighed against the security that adoption would give to the foster-parents and the child. Furthermore, the natural father had a useful and important part to play in the child's life in the future, when she was likely to seek out her cultural roots. In the particular circumstances of the case, therefore, it would not be right to make an adoption order. The proper order for the court to make, having established that the future of the child throughout her childhood was with the foster-parents, was an order that wardship should continue, with care and control to the foster-parents and reasonable access to the father.

The father appeared in person and was not represented;
Patricia Dangor for the foster-parents;
Mhairi McNab for the local authority;
Angelica Mitchell for the guardian ad litem.

BUSH J:

These two sets of proceedings relate to a child, N, born in England on 9 April 1984, so that she is 4½ years old. Emotions in this case run very deep. The father and mother are both Nigerian citizens and both live in the USA, though not together. The father became a citizen of the USA on 9 January 1987. The first application in time is the adoption proceedings and that is an application by Mr and Mrs P who are white and aged 52. They are the foster-parents. The case has been transferred from the Reading County Court to the High Court. The second set of proceedings are those in which the father is the plaintiff and he has issued his originating summons in wardship on 25 August 1988. The father seeks care and control of N and leave to take her out of this jurisdiction to the USA. In this he is supported by the child's mother and by Miss F, who is the father's woman friend. The child's mother has immigration difficulties both in the USA and here and has not, therefore, been in attendance. However, she had been in daily telephone contact with the guardian ad litem's solicitors and I have had placed before me notes of her observations and the things that she would wish to be said. In the adoption proceedings application is made to dispense with the consent of the mother on the ground that it is unreasonably withheld. As N is illegitimate the father's consent is not required but he is entitled to be heard, and of course he is the plaintiff in the wardship proceedings. I would like here to pay tribute to the father. He has not been represented, he has conducted his own case, he has conducted it skilfully and with dignity and has been of the greatest assistance to the court.

It was convenient to hear both applications together though, by virtue of s. 6 of the Adoption Act 1976, in reaching any decision relating to the adoption of a child, the court or adoption agency shall have regard to all the circumstances, first consideration being given to the need to safeguard and promote the welfare of the child throughout his childhood and shall so far as practicable ascertain the wishes and feelings of the child regarding the decision and give due consideration to them having regard to his age and understanding, whereas, in the wardship proceedings the first and paramount consideration is the welfare of the child.

The most important question to decide is where does N's future lie. We are all of us parents or potential parents and it is very difficult and sad for

us to say that a child should be brought up by someone other than the natural parents. It should of course always be borne in mind that in English law N is a person in her own right and not just an appendage of her parents.

About 3 weeks after the birth of N the mother placed her with Mr and Mrs P by way of a private fostering arrangement and she has remained there ever since and been cared for by them. She regards them as her parents and she regards the five other children, whose ages range from 19 to 24, as her brothers and sisters. Of those five children one is male and four are female. She knows that she has a black mother and father as well, though her difficulty in embracing the concept of a biological parent at the age of 4½ would be quite evident. Mrs P is an experienced foster-mother and fosters children of other races as well as English.

The natural father is a highly qualified intelligent man. He was divorced at the time of the birth of N. On 4 October 1984 he signed a statutory declaration in the USA acknowledging paternity. On 4 January 1985 the mother telephoned to the Ps to say that she was delayed. She had telephoned on other occasions. On 14 February 1985 the mother came back to England, visited N, and the father telephoned the same day. On 20 February 1985 the mother left for the USA. She told the Ps that she was not allowed to take N with her but she hoped to join the father. She did not join the father. There would have been difficulties about that because of the importance of the father's job and it would not have been appropriate that he should be seen to be associating with an illegal immigrant.

The father, be it emphasised, has always taken an interest in his child and has sent money and clothing and has consistently sought the care of his daughter for himself. It is some indication of the present sad relationship between the father and the foster-parents that there has been some bickering as to how much the father pays and whether the provision was enough. It probably was not, but it does not really matter, and in any event the Ps were looking to the mother to provide the money and clothing because their original agreement had been with her. The placement originally was for 2½ weeks. It has now been 4½ years.

By June 1985 the Ps were getting anxious and considered wardship proceedings. They also wrote to the Home Secretary. Before the British Nationality Act 1981 the fact that N was born in England would have meant that she was automatically a British citizen. The old principle of the English common law that he whose first breath was English air was English no longer obtained. As a result of the 1981 Act N would have to show that one or both parents were British in order to be entitled to British nationality. If she were adopted by the Ps N would acquire British nationality. At present if seems to be accepted that she is a Nigerian citizen with a right to enter the USA with her father if this court thought that she should go to her father.

On 9 September 1985 the father spent a short time with N and some agreement was arrived at with the Ps, that Mrs P would take the child to the USA to live with her father. A letter saying that there was no objection to the father having custody was provided by Mrs P and the father was able to have N's name placed upon his Nigerian passport. However, he still had to obtain a US visa for the child. Mr and Mrs P seemed to have

thought that this would not take long whereas the father contemplated a period going up to September 1986.

The Ps complain that the father never sent the ticket or the air fare for Mrs P and the child to go. Be this as it may, on 27 July 1986 the father telephoned the Ps and said he could not care for N for reasons which he gave at that time.

On 6 August 1986 the mother telephoned Mrs P and expressed her willingness to sign papers giving Mrs P custody. The child was then 2 years old. On 22 August 1986 Mrs P wrote to the father about custodianship. On 30 August there was a letter from the Home Office extending N's leave to stay in the United Kingdom until 20 February 1987. Both mother and father seem to have continued willingly to sign custody papers in favour of the Ps. On 2 October 1986 the Ps notified the social services of their intention to apply to adopt N. In November 1986 the father tells me, and I have no reason to doubt it, that there was a change in the US law whereby US fathers of illegitimate children could get visas to bring the children into the US and on 9 January 1987, as I have said previously, the father was sworn in as a US citizen. On 9 September 1987 the father was told by the US authority that a visa was available for N to go to the US. N then was 2 years 5 months old. Ten days later the visa was suspended by the US Embassy because of the dispute that arose with the Ps as to N's future and the fact that they had given notice of intention to adopt. On 9 October 1987 adoption proceedings were commenced in the Reading County Court. On 25 August 1988 the father issued his originating summons in wardship. There were access visits by the father and Miss F and they covered a period from 24 May 1988 to 2 July, eight access visits in all, including one on 29 June 1988 when Dr B was interviewing the parties and saw the child. Though Mrs B thought on one occasion that there might be some seeds of a relationship with the father there was not very much progress so far as getting the child to know or accept the father. In all, I think over the 4½ years the father has had about 18 hours in the child's company. Access deteriorated and Mrs B was quite depressed about the prospects of getting this child to know the father. Not the least difficulty was that the child had already been told – whether this was wise or not, I express no view – that the father wanted to take her with him to the US and she was resistant to the idea that she should have to leave the Ps. Indeed, whatever apparent success there was on the surface, what happened after access clearly demonstrated that this child was in danger of becoming very disturbed indeed, waking up eight or nine times in the night, bed-wetting and all the features that the expert points to to show insecurity, or dawning insecurity in a child. The father was disturbed in a sense about N's attitude towards him and she was manifesting signs of severe behavioural problems, and the father says he suggested to the Ps and the social workers that a psychiatrist should see N. The father was saying really that the child's disquiet was because the Ps and the social workers had handled it all rather badly, in presenting him to the child as a person who wanted to take her away from the Ps.

Not only does the court in this case have to cope with practical difficulties involved in a transfer of N from the Ps to the father in a foreign land where the father will have to work long hours, and Miss F too has to work long hours, but I have also been bombarded by a host of theories and

opinions by experts who derive their being from the political approach to race relations in America in the 1960s and 1970s. The British Agencies for Fostering and Adoption forcefully expressed the view that black children should never be placed with white foster-parents. That that part of the approach was politically inspired seems clear from reading the summary to a practice note, the date of which is not clear. Nevertheless, it is an approach which due to the zeal of its authors has persuaded most local authorities not to place black children with white foster-parents. The summary note reads as follows:

> 'Over and above all these basic needs, children need to develop a positive identity, including a positive racial identity. This is of fundamental importance since ethnicity is a significant component of identity. Ideally such needs are met within the setting of the child's birth family. Historically black people have been victims of racism for centuries. This has manifested and continues to manifest itself in many forms. Racism permeates all areas of British society and is perpetuated through a range of interests and influences, including the media, education and social service policies and practices. Negative and stereotypical images and actions can have a major impact on black children through the internalisation of these images, resulting in self-hate and identity confusion. Black children therefore require the survival skills necessary to develop a positive racial identity. This will enable them to deal with the racism within our predominantly white society.'

As Dr B, an eminent and experienced child psychiatrist with consultancies attached to Great Ormond Street and the Royal Free Hospital pointed out – and this was accepted by a consultant social worker, Mrs E (to whom I shall refer in a minute) there seems little real evidence, save anecdotal, to suggest that black-white fosterings are harmful. Indeed, Dr B says that her experience, particularly at Great Ormond Street, indicates to the contrary, namely, that the placement of black children with white foster-parents works just as well as black foster-children with black foster-parents, and the real problem, of course, is that black foster-parents are in short supply in this country.

There seems generally a feeling, again based on anecdote, that black children coming from white backgrounds may have difficulty in coping with what is described as racism because they are an oppressed minority. Moreover, the definition of 'black' gives rise to difficulties. In the Practice Note 'black' is defined as Afro-Caribbean/Asian, that is Indian, Pakistani and Indonesian, and Chinese, African and Arab. If one natural parent is white and the other black, then the rules require that the child rates 'black' treatment. Some local authorities even go in for what one advocate described as colour co-ordination, that is if the child is three parts white and one part black, then you try to get the same combination in foster-parents. I have only to cite this doctrine to show the ridiculous nature of a dedication to dogma.

Most local authorities have accepted these principles and though there are dissenting voices with just as strong a claim to be heard, one social worker in answer to the question 'what do you mean by black?' said 'not white'. This in itself creates problems because, for example the Moors got

as far as Poitiers in 795 and they remained in Spain for eight centuries until expelled by Ferdinand and Isabella in the sixteenth century. There must have been a good deal of miscegenation at that time. Further, what, in the light of this, is your definition of 'white'? Are you seeking a pure Aryan? We, of my generation, know only too well where that road leads. Apart from which, if I may take an example, a child brought up in a black Methodist household in Jamaica would have far more in common with a white Methodist English family than with a Nigerian Muslim family. One local authority in a case in which I was involved even put a Sikh child with a Muslim family. The mischief that an unquestioning application of this approach has engendered has been clear to this Division of the High Court for some time. Only recently I found that a black child, having been placed, I think at the age of 18 months, with white foster-parents and leave having been given to place the child with long-term foster-parents with a view to adoption, the white foster-parents being meant as short-term foster-parents, the child was left there for 2 years while that local authority searched for a suitable ethnic placement with a view to adoption. Though the white foster-parents were prepared to keep the child and she was bonded to that family, the local authority in pursuance of these views insisted on moving her to a single woman of Afro-Caribbean origin, who, in the euphemistic words of a medical report, over-disciplined her because she would not settle. By this time the child was severely disturbed. And all this was done in the name of principle. The only proposal that the local authority could then manage was that there should be leave for the child to have psychiatric and psychological treatment because of the damage that had been done to her by their actions.

In my view – and I have no wish to enter into what is clearly a political field – the emphasis on colour rather than cultural upbringing can be mischievous and highly dangerous when you are dealing in practical terms with the welfare of children. Also, the fact remains that this child has been placed with white foster-parents and they have been the only real family she has ever known. I do not for one moment think that the father subscribes to this dogma. He does not have to be condescended to because he is black; he has made his way and his children will make their own way in the world because of intelligence and flair. To suggest that he and his children need special help because they are black is, in human terms, an insult to them and their abilities. Yet it is to this principle that a whole social work philosophy has been dedicated. I do not need persuading that if at all possible the parents being suitable, a child should be brought up by its natural parents. Nor do I need persuading that experience tells us that particularly during teenage years there is a desire in children who have not been brought up by their natural parents, or who have not been having a regular access to them, to seek them out and that, if the whole of their placement has not been handled responsibly and delicately throughout their childhood, and sometimes even then, there may be psychological problems. There are of course serious psychological problems likely to arise when an effort is made to part a 4½ year-old child from the only carers she has ever known.

I have mentioned this at length because of the way in which the witnesses Mrs E, consultant social worker, and Mrs T, of International Social Services have approached this case. They were strong on theory and

generalities but not very helpful in practice and seem to have ignored the body of evidence of Dr B and Mrs B that there were serious dangers to this child if a separation was effected at this stage. The guardian ad litem's view was that it would be cruel to move this child now and this factor, and the factors of serious psychological damage have not been addressed by Mrs E or Mrs T.

There is, of course, a very important question which relates not so much to colour as to national origins. The father and mother are Nigerian. The father is under some pressure from his father, who will be disgraced if it appears that even an illegitimate child has been abandoned. The father is a Roman Catholic, and I accept that he has a genuine desire to bring up his own child. An older illegitimate child of his, a boy, lives with a different mother in Nigeria and visits his father at regular intervals.

The evidence of Mrs B, a consultant social worker, as to Nigerian practice is of use, though one has to bear in mind, as the father said in his able argument, that there have been changes in Nigeria, but I do not think that he really disputed the full content of what she was saying, and her experience not only in Nigeria but also working with West Africans living in Great Britain. She is now a freelance adviser and takes part in training for the British Association for Adoption and Fostering. She said there is no concept of adoption in Nigerian society. It is the normal cultural pattern for children to be brought up by others, often for most of their minority, and to be aware of their birth parents. Adoption rather than fostering of a West African child has particular difficulties. Adoption is to transfer a child from one family into another permanently and although the adoptive parents strive to inform the child about its origins in adoption it is clear the child is as if it were born to the adopters. In fostering, even long-term carers and the child are aware this is another and different family from a true family. If the child is moved from a white foster home to Nigerian culture, with the foster-parents not wanting the child to go, this can be devastating. Growing up with a set of values, a way of looking at family life, is constant in the same culture. However, to move from a British family with a closeness, autonomy and freedom to express what you want and to do what you want to a place where you cannot can be very distressing long-term. The damage of losing the people you trust at the same time as the trauma can be life-long. Further, there were qualifications in the report of the social workers in Connecticut which related to the dangers of transfer.

On 29 June 1986 the father and Miss F came over to see Dr B. The father travelled at only 2 hours' notice, which is an indication of his dedication to the welfare of his child. The proceedings with the doctor did not get off to a very good start because, due to the exigencies of travel, the father was late and was reproached by Dr B. In the event, she was with him for only 20 minutes and he is resentful that she would not, in his view, listen to the proposals he wished to make for transfer, proposals which he now advances in evidence. This, as he says, gave an element of imbalance to the interview and that was extremely unfortunate. There was a further element of imbalance in the sense that Dr B did not elicit the father's version of what had caused the scene in which the father was alleged to have threatened Mrs P. Nevertheless, the views of this extremely experienced psychiatrist on the dangers of even trying the transfer of this

child are extremely important and have to be borne in mind. I will assume for the purposes of my exercise that the doctor's assessment of the father's abilities are completely wrong and I approach the case on the assumption that the father's co-operation is certain and that he understands the implications of what he suggests.

Dr B said, referring to N:

> 'N is a black girl of African origin who is living in a white family in a multi-cultural society. She has not known any other parents and has lived for the vast majority of her young life with the same family in harmony and has developed well there. Her recent recognition that her future may not be with the Ps had rendered her insecure. N is 3 [as she was then] . . . she is at the height of her attachment to her caretakers. Any threat of disruption of these bonds will produce severe separation anxiety and hostility towards the person threatening to disrupt the bonds and ambivalent behaviour towards the person to whom she has made her attachment, in this case Mrs P. Her behaviour of alternately clinging and rejecting would, therefore, be in keeping with what we know about attachment behaviour. In my opinion, N is well attached to her foster-family and particularly Mr and Mrs P. Her security resides in being within sight or sound of them for most of the day and she is able to separate from them only to go to her nursery school where she has built up an attachment to her teachers and peers in a gradual way. It would be possible to transfer her to another family, given time, patience and the slow build-up of relationships on both sides. The question the court has to consider is: is it justified to attempt such an exercise with a child of this age when her attachment bonds are at their most intense? . . . What are the dangers for N for moving from the only family she has known to a new life in a different country with a man whom she barely knows and does not at present like, where her care will be fragmented because of his work and where it is not possible for him to take enough time off to build a sound relationship with her?'

This was the result of a suggestion I think that Dr B threw out, that perhaps if the father came over and spent 3 months with the Ps and N it might be possible to see how things progressed. But, of course the father could not be expected to give up that length of time to the exercise. In evidence Dr B said:

> 'If N were to lose the only parents she knows suddenly it would be the same as children I have seen who lose their parents by death. The difference would be that the people she sees as parents would be still alive and working, in effect, in her eyes, to reject her and she would lose all trust for adults in the world.'

Dr B pointed out that she has already shown her anger with the Ps for bringing 'that man' to her. She said that children who lose the attachment figure under 10 years of age are two or three times more likely to develop depressive illnesses in later life.

Dr B also expressed views on trans-racial adoptions, which generally seem to indicate that in her experience they worked. Dr B concluded that

the least detrimental solution was for N to remain with her psychological parents.

The guardian ad litem said:

> 'N is emotionally bonded with Mr and Mrs P. They are her psychological parents. She needs them because she has had no other family. Whilst in Nigerian culture the needs of the child would not be more paramount than those of the parents, N has been raised in a western society. It is impossible to draw a curtain over her initial years of emotional and physical development.'

The effect of access visits upon N has already been catastrophic and I have earlier in this judgment mentioned the difficulties of severe behavioural problems that N is already exhibiting.

What are the father's proposals? The condition precedent to those proposals is the involvement and support of the Berkshire County Council Social Services. There is extreme doubt as to whether the Berkshire County Council could or would get involved in that kind of situation because they would be asking the social workers to do something which they did not believe in the end would work. But, given that as a condition precedent, the father says 'I have available a relative' – it is his cousin and she would come over for a 6 months' visit because the father would have to go back to the USA and work –'and she would get friendly with Mr and Mrs P' (that, of course, would be an important first step) 'and then get on friendly terms with N and eventually N would come to the USA with that woman who would live with me at least until N had settled in the USA'. His second proposal had the same features except that the person proposed would be his sister, who would come from Nigeria. The father emphasises that all his proposals would involve visits to the Ps from the USA for periods of time by way of holiday, so that they would be kept in the child's life. He says that the British Association of Fostering and Adoption would be able to assist in that. The difficulty about those proposals is that it involves yet another person whose actual part in the child's life has not been defined. Is she to be the mother-figure? What is the position? Also it involves the co-operation of Mr and Mrs P in trying to do something which they regard as positively harmful for the child, and I do not see that, however hard they try, they could effectively co-operate in that scheme, even though they did their best to.

Then, the suggestion was made of a bridging placement and I read out the proposals of the father which he was kind enough to have typed out and put before me:

> 'N to be moved to a bridging placement with short-term foster-parents, preferably black, whose defined task is to prepare N for restoration to her family in the USA, dealing with the difficulties of behaviour due to separation. The P family would, we anticipate, visit N in the foster placement of benefit to N and the Ps in the relinquishment process. [Miss F] and I to have access prior to the child's departure from the United Kingdom and if possible a member of the fostering family to travel with us to the USA, remaining for approximately 2 weeks. Alternately, or in addition, the relative referred to on Tuesday could

> visit regularly in the foster home and travel with us to the USA. She is able to come and live over an extended period of time. It would be beneficial to N if she could be introduced early on.'

Then the father goes on to point out that he has strong support in the USA from friends and indeed would be able to obtain psychiatric help. He then goes on:

> 'The bridging placement would involve foster-parents capable of dealing with a child who is acting out, bed-wetting.'

I suspect those are perhaps words which come from Mrs M, who has remained in court throughout the proceedings and has no doubt given the father the benefit of her advice. He goes on to say:

> 'BAAF assure us of the existence of suitable foster homes to carry out this work and assure us that work is constantly being done in restoring African children to their families, and London local authorities have assured us that short-term black foster-parents capable of dealing with such tasks do exist.'

And no doubt, it says. Berkshire Social Services Department can supply short-term foster care.

Again, though this appears to go beyond the generalities that I spoke of earlier, it still does not address the question of the effect upon this child. Indeed, I think it was one of the witnesses who said they did not follow up the results of any transfers that they had made – I think it was BAAF who were saying that – they did not follow up the result, so that they could not say what the eventual effect on the patient was.

None of this was put to Dr B, except in general terms. So we do not know what the effect on this child of 4½, reared in an English family, is going to be of these arrangements.

Then the father suggests a short-term placement with a Mrs M, who has experience with African children. Of course, this child is not African in that sense of the word, she is English. She has no experience of Africa or African affairs. Also, the father says:

> 'I have interviewed in her home Mrs F, who fosters for the London Borough of Haringey and Hackney, and she takes children aged 2 +, has access to a black psychologist and other professional resources,'

and she would agree to do the bridging placement. Then:

> 'International Social Services have many years of experience of family reunion. I have spoken with Mrs E, who spoke of a bridging placement in her report. Mrs E knows people of the calibre required to take on this task and she has stated she would be happy to be approached by Berkshire Social Services to discuss available resources.'

I think when I said it was the BAAF witness who said that they did not follow up, it was the African Family Services. There it is. Those are the

proposals. I suppose one has to admire the courage of those who make these proposals in the face of the strong evidence of Dr B that harm will result. I suppose one must admire him for having the courage to make the attempt. But none of the proposals would, in my view, ensure that N, who is a strong-minded little girl, would not come to serious harm if a transfer were attempted. It may well be true that there have been other transfers without harm of children aged 3 to 10, of which the father speaks, and in circumstances of which I have no specific detail. However, I am satisfied, as are the local authority and the guardian ad litem that N could not be moved without immense harm to her psychological development and her psychiatric health, both now and in the future. The later harm that may arise in her teens when she wishes to seek out her cultural roots can best be dealt with by sympathetic understanding and education, upon which the Ps have already embarked, and it can also hopefully be met by the father continuing his interest and having access to N. It can only be helped if the father accepts the situation and enjoys access not on the basis of an expected rehabilitation but on the basis of a contact access designed to keep N in touch with her origins. If the father cannot accept this, then it may be that for N's security access would have to cease.

The Ps want adoption with an access order. The local authority and the guardian ad litem oppose adoption on the ground: (i) that the father has a useful and important part to play in the child's life in the future, particularly when she is nearing adulthood; (ii) that access to which the Ps are to some extent agreeable might very well be imperilled, the fact being that an adoption would result in the father and the whole of his family losing face. The father told me, and I have no reason to disbelieve, in the course of his argument that in his culture adoption is viewed as a restoration of slavery, which would be a deep and hurtful blow to him and his family. The question one has to ask oneself is whether the security that adoption would give to both the Ps and to N is offset by the fact that it clearly would not be in N's interests for her father to feel the shame and distress that in his culture an adoption order would bring.

Thirdly, it is said by the guardian ad litem and the local authority that the security of N can in these particular circumstances be met by the knowledge that the Ps have care and control and that I have said that her future lies with them. Fourthly, that her status with the Ps will not create immigration difficulties in the light of the evidence of a witness from the Home Office.

I know all the arguments, I have heard them many times, about the security that an adoption could give and in the main I accept the arguments and have in the past acted upon them, but in the particular circumstances of this case I would not think it right to make an adoption order. Circumstances of course may change in the future. The guardian ad litem is most concerned, as we all are, that what has really become open warfare between the Ps and the father should cease. It is in the interests of N that it should so cease. I accept that the father is bitterly hurt and distressed and feels utterly betrayed by the Ps, and no doubt my decision has distressed him even more. However, the future of N throughout her childhood lies with the Ps and the father is intelligent enough and dedicated enough to his daughter to appreciate that changes of attitude on his part must come about. The local authority are anxious that they should

use the services of Mrs B to monitor the situation and counsel both the father and the Ps, and I certainly have no objection to this.

Accordingly, the order that I make is that the wardship shall continue, that there be care and control to Mr and Mrs P, that there be reasonable access to the father to be agreed. In default of agreement it should be access once a year over a period of one week to begin with and that access to take place in England. There will be liberty to the father to have reasonable access by letter and card and there will be an order that the access be supervised by an officer appointed by the Berkshire County Council. There will be leave to take a copy of my judgment and the father to be provided with a copy of my judgment at the expense of the local authority. He does not have to pay for it himself. I have been asked to say that there should be leave to the Ps to make another application for adoption in the future. The suggestion by the local authority was that it should be 3 years ahead but not before 3 years, and by the guardian ad litem not before 5 years. I do not think it is appropriate at this stage to give such leave. Should circumstances change then affidavits can be sworn and the matter considered afresh in the light of my judgment, which will remain with the file.

Solicitors: *Thorburn & Co.*, Reading, for the foster-parents;
Griffiths Robertson, Reading, for the local authority;
Wilford McBain for the guardian ad litem.

PATRICIA HARGROVE
Barrister