

---

Volume 81  
Issue 4 *Dickinson Law Review - Volume 81,*  
1976-1977

---

6-1-1977

## Effect of the Adoption Act of 1970 on Termination of Parental Rights

Richard L. Placey

Follow this and additional works at: <https://ideas.dickinsonlaw.psu.edu/dlra>

---

### Recommended Citation

Richard L. Placey, *Effect of the Adoption Act of 1970 on Termination of Parental Rights*, 81 DICK. L. REV. 709 (1977).

Available at: <https://ideas.dickinsonlaw.psu.edu/dlra/vol81/iss4/4>

This Article is brought to you for free and open access by the Law Reviews at Dickinson Law IDEAS. It has been accepted for inclusion in Dickinson Law Review by an authorized editor of Dickinson Law IDEAS. For more information, please contact [lja10@psu.edu](mailto:lja10@psu.edu).

# Effect of the Adoption Act of 1970 on Termination of Parental Rights

Richard L. Placey\*

## I. Introduction

There has been concern in Pennsylvania among governmental agencies and private institutions, as well as the bench and the bar, that too many children are required to maintain a parent-child relationship with parents who have little regard for the child's welfare, or who are unable to provide a minimum standard of proper parental care.<sup>1</sup> The Pennsylvania General Assembly addressed this problem in 1970 when it extensively revised the Adoption Act<sup>2</sup> by expanding the grounds for involuntary termination of parental rights.<sup>3</sup> In addition to broadening the grounds of abandonment,<sup>4</sup> a new ground, section 311(2), became part of the adoption law.<sup>5</sup>

The official comment to the new section indicates that its purpose is to focus judicial inquiry upon the welfare of the child.<sup>6</sup> Some courts have held, however, that in the absence of sufficient evidence of parental fault, the question of the welfare or best interest of the child is not a consideration.<sup>7</sup> The lower courts are understandably confused as to the state of the law under section 311(2):

---

\* LL. B. 1955, Dickinson School of Law; Former Chairman, Family Law Section, Pa. Bar Association; Partner, Placey & Wright, Harrisburg.

1. Article by the Honorable Hugh C. Boyle, Chairman of the Subcommittee on Adoption of the Joint State Government Commission Decedents' Estates Laws Advisory Committee which appeared in *Fiduciary Review*, September, 1970.

2. PA. STAT. ANN. tit. 1, § 101-603 (Purdon Supp. 1976-77).

3. Section 311 replaced section 1.2.

4. PA. STAT. ANN. tit. 1, § 311(1) (Purdon Supp. 1976-77).

5. The new section allows the termination of parental rights when the repeated and continued incapacity, abuse, neglect or refusal of the parent has caused the child to be without essential parental care, control or subsistence necessary for his physical or mental well-being and conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent.

*Id.*, § 311(2).

6. JOINT STATE GOVERNMENT COMMISSION, OFFICIAL COMMENT, ADOPTION ACT § 311 (1970).

7. Adoption of McAhren, 460 Pa. 63, 331 A.2d 419 (1975); Richardson Adoption, 23 Pa. Fiduc. 489 (C.P. Erie 1973); Peternel Adoption, 24 Pa. Fiduc. 204 (C.P. Alleg. 1974). See also Adoption of M.P., 24 Pa. Fiduc. 210 (C.P. Lanc. 1974).

[W]e are not certain whether the welfare of the child is a factor we should consider in a proceeding to terminate parental rights involuntarily . . . . With the law at the present time being rather inconclusive, we feel that it would be inappropriate for us to reach a decision based solely upon the best interests or welfare of the child, although in our minds we are well satisfied that this should be not only a consideration but the most important consideration.<sup>8</sup>

This article will explore various interpretations adopted by the courts in construing the grounds for termination of parental rights and will suggest a broadening of the application of the new ground set forth in section 311(2).<sup>9</sup>

## II. Historical Background

Under the 1925 Adoption Act, the primary ground for termination of parental rights was abandonment, defined in the Act as "conduct on the part of a parent which evidences a settled purpose of relinquishing parental claim to the child and of refusing or failing to perform parental duties."<sup>10</sup> The cases construing the section made clear that an intent to escape parental responsibility was an essential element of abandonment.<sup>11</sup> If the parent's conduct, however undesirable it was and whatever adverse effect it had upon the welfare or best interest of the child, fell short of that standard, termination could not be decreed. The welfare or best interest of the child was not a consideration until the abandonment had been found.<sup>12</sup>

In 1951 a task force of the Joint State Government Commission undertook a review of the procedures for placement of children. In 1953 the National Conference of Commissioners on Uniform State Laws recommended a Uniform Adoption Law. Although Pennsylvania's 1925 Adoption Act was amended in 1953 to meet some objections,<sup>13</sup> the subject lay dormant until the 1960's. Then, in 1962, the Joint State Government Commission Task Force and Advisory Committee on Decedents' Estates Laws was asked to formulate amendments to the 1925 Act. At the same time, officials of public and private welfare agencies, the Family Law Section of the Pennsylvania Bar Association, and the Pennsylvania Department of Public Welfare began to revise the adoption laws.

---

8. *In re Rinehart*, 70 Pa. D. & C.2d 739, 746 (C.P. Adams 1975).

9. Section 311(3) allows the parental rights of the presumptive but not natural father of the child to be terminated upon establishment of the fact that he is not the natural father. This ground is not treated in this article.

10. Adoption Act of Apr. 4, 1925, P.L. 127, § 1, *as amended*, PA. STAT. ANN. tit. 1, § 1(a) (Purdon 1963).

11. *Rettew Adoption Case*, 428 Pa. 430, 239 A.2d 397 (1968); *Snellgrose Adoption case*, 425 Pa. 258, 228 A.2d 764 (1967).

12. *Jacano Adoption Case*, 426 Pa. 98, 231 A.2d 295 (1967); *Gunther Adoption Case*, 416 Pa. 237, 206 A.2d 61 (1965).

13. Act of Aug. 26, 1953, P.L. 1411.

In 1967 and 1969 bills were introduced to revise the Adoption Code but were not adopted. Late in 1969 the Honorable Hugh C. Boyle, Chairman of the Subcommittee on Adoption of the Joint State Government Commission Decedents' Estates Laws Advisory Committee, at the direction of the Task Force and Advisory Committee, called a series of meetings to conclude a satisfactory adjustment of outstanding objections to the legislative proposals previously presented. The proposed legislation embodying the subcommittee's recommendations was introduced in the General Assembly on May 14, 1970, and became law on July 24, 1970, as the Adoption Act of 1970.<sup>14</sup>

### III. Grounds for Involuntary Termination of Parental Rights Under the Adoption Act of 1970

#### A. *Parental Intent to Abandon*

Section 311(1) of the Act initially appears to restate the abandonment provisions of the 1925 Act.<sup>15</sup> Closer scrutiny, however, reveals that through use of the disjunctive (*or*) two distinct grounds for termination are set forth:

- (A) A settled purpose of relinquishing the parental claim to a child, or
- (B) A refusal or failure to perform parental duties.<sup>16</sup>

Intention to abandon is no longer the essential element in cases in which termination is based on refusal or failure to perform parental duties.<sup>17</sup> Under the present law, abandonment is established if either (A) or (B) above is proven. Under (B) there will be cases in which a parent may lose parental rights despite a desire to maintain them, or in which there is no settled purpose of relinquishment of parental claim.<sup>18</sup>

#### B. *Abrogation of Parental Duties*

The courts have continued, and properly so, to apply a rule to a section 311(1) termination that had been applied in abandonment cases under the 1925 Act. This rule provides that the best interest of the child is not a consideration in cases arising out of that section until abandonment has been found.<sup>19</sup> Section 311(1) now applies to all cases in which there is an abandonment coupled with an intention to abandon, or in which there is willful failure or refusal to perform parental duties without regard to intent. This section requires that the parent be at fault for a six-month period.

---

14. Act of July 24, 1970, P.L. 620, No. 208, *codified in* PA. STAT. ANN., tit. 1, §§ 101-603 (Purdon Supp. 1976-77).

15. PA. STAT. ANN. tit. 1, § 311(1) (Purdon Supp. 1976-77).

16. Castell Adoption, 55 Pa. D. & C.2d 307 (C.P. Fay. 1972). Owen Adoption, 51 Pa. D. & C.2d 761 (C.P. Mercer 1971).

17. Adoption of JRF, 27 Som. 298 (Pa. C.P. 1972).

18. Adoption of Croisette, — Pa. —, 364 A.2d 263 (1976).

19. Adoption of McAhren, 460 Pa. 63, 331 A.2d 419 (1975).

Section 311(2), which had no counterpart under the 1925 Act, was suggested by section 19(c) of the revised Uniform Adoption Act.<sup>20</sup> The official comment of the Joint State Government Commission states that the import of this section “differs from ‘abandonment’ in that it centers judicial inquiry upon the welfare of the child rather than the fault of the parent.”<sup>21</sup> Section 311(2) provides:

The repeated and continued incapacity, abuse, neglect, or refusal of the parent has caused the child to be without essential parental care, control, or subsistence necessary for his physical or mental well-being and the conditions and causes of the incapacity, abuse, neglect, or refusal cannot or will not be remedied by the parent . . . .<sup>22</sup>

For the most part, the treatment accorded section 311(2) by the courts has been confusing. For example, the existence of this section as a separate and distinct ground for termination of parental rights has largely been ignored. The confusion was initiated by the Joint State Government Commission’s official comment to the section, which indicates that its purpose is to focus inquiry on the welfare of the child rather than on the fault of the parent. The section itself, however, does not do this. The Pennsylvania Supreme Court as well as the lower courts, have augmented the confusion by not clearly distinguishing between the second ground for termination in section 311(1) and the ground set forth in section 311(2).<sup>23</sup> The following discussion will illustrate the construction given to section 311(2) since its enactment.

Most cases hold that a statutory prerequisite to considering the welfare of the child is a finding that there is and will continue to be nonperformance of affirmative parental duties or parental fault of some sort.<sup>24</sup> *Jones Appeal*,<sup>25</sup> an early case construing section 311(2), set the tone for what was to follow:

While the new Adoption Act must be viewed as an expansion of the courts’ powers to terminate parental rights under the proper circumstances, the statutory standard of evidence necessary to support termination is nonetheless demanding. The legislative enactments [embodied in section 311(2)] demonstrate that the courts should not disturb the parent-child relationship in the absence of compelling evidence of ‘*repeated and continued incapacity, abuse, neglect or refusal*’ to provide essential parental care.<sup>26</sup>

---

20. Uniform Adoption Act, 9 U.L.A. § 19(c) (Master Edition 1973).

21. JOINT STATE GOVERNMENT COMMISSION, OFFICIAL COMMENT, ADOPTION ACT (1970).

22. PA. STAT. ANN. tit. 1, § 311(2) (Purdon Supp. 1976-77).

23. See Adoption of McAhren, 460 Pa. 63, 331 A.2d 419 (1975); Appeal of Diane B., 456 Pa. 429, 321 A.2d 618 (1974); discussion of cases accompanying note 24 *infra*.

24. Adoption of McAhren, 460 Pa. 63, 331 A.2d 419 (1975); Shaeffer Appeal, 452 Pa. 165, 305 A.2d 36 (1973); Peternel Adoption, 24 Pa. Fiduc. 204 (C.P. Alleg. 1973); Richardson Adoption, 23 Pa. Fiduc. 489 (C.P. Erie 1973).

25. 449 Pa. 543, 297 A.2d 117 (1972).

26. *Id.* at 547, 297 A.2d at 119 (emphasis in original).

No attempt was made to distinguish between failure or refusal to perform parental duties—constituting grounds under section 311(1)—and repeated and continued incapacity, abuse, neglect, or refusal by the parent to provide essential parental care—purported grounds for termination under section 311(2). The activities or situation of the parent are central to both.

In other decisions the court has held similarly. The court remanded the *Shaeffer Appeal*<sup>27</sup> case for the lower court to consider terminating parental rights under section 311(2). The lower court was instructed to receive evidence of a “*continued and irremediable parental incapacity* as would justify a decree of involuntary termination under Section 311(2) . . . .”<sup>28</sup> Such an inquiry into parental incapacity would be required to establish grounds for termination because of refusal or *failure* to perform parental duties.<sup>29</sup> The court apparently considered this inquiry of primary importance for the establishment of grounds under section 311(2).

A possible explanation of the court’s holding lies in its statement that the parent’s fitness as a parent has no relationship to the issue of abandonment under section 311(1).<sup>30</sup> Hence, the court draws a distinction between “parental fitness,” stating that this is relevant under section 311(2), and “failure to perform parental duties,” which is properly considered under section 311(1). The line of demarcation between the two is less than clear, however, since “parental unfitness” can only result from a failure to perform parental duties, regardless of the underlying reason for the failure.<sup>31</sup> Therefore, while the court in *Shaeffer* was unwilling to find abandonment of the child on a showing of unfitness of the parent, it would have been justified in doing so under section 311(1) depending on the duration and degree of the incapacity.

The most recent, and the clearest, supreme court construction of section 311(1) came in *Adoption of McAhren*.<sup>32</sup> In unequivocal terms, the court stated that “in the absence of sufficient evidence to satisfy the statutory requirements for involuntary termination, the question of the best interest of the child never arises.”<sup>33</sup> The court searched for conclusive evidence of refusal or failure to perform parental duties as a prerequisite for termination under section 311(1). As a result, then, the court required a finding of parental fault as the nexus of section 311(1) grounds for termination. It declined to specifically consider the child’s welfare despite the causal relationship between parental fault and child welfare.

---

27. 452 Pa. 165, 305 A.2d 36 (1973).

28. *Id.* at 171, 305 A.2d at 40 (emphasis in original).

29. *See also* PA. STAT. ANN. tit. 1, § 311(1) (Purdon Supp. 1976-77).

30. *Shaeffer Appeal*, 452 Pa. 165, 168, 305 A.2d 36, 38-39 (1973).

31. “Parental unfitness” may be interpreted in a neutral sense. A parent incapable of performing parental duties is just as parentally unfit as one who refuses to perform the duties.

32. 460 Pa. 63, 331 A.2d 419 (1975).

33. *Id.* at 70, 331 A.2d at 422.

### C. *The Best Interests Criterion*

The “best interests of the child” criterion has been applied, in accordance with the official comment, in some cases construing section 311(2). In *Appeal of Diane B.*,<sup>34</sup> the court delved into that inquiry in considering the section 311(2) grounds for termination. It held that parental rights may be terminated under the section despite a desire on the part of the parent to keep the child.<sup>35</sup> The parent has a positive duty to provide care, control and subsistence for his or her child, as well as a duty to love, protect and support the child.<sup>36</sup> Thus, when it is shown that a child is not receiving the parental care essential to normal development and a minimal level of well-being, parental rights may be severed.<sup>37</sup> Judicial inquiry focused upon fulfillment of the child’s needs as well as upon the fault of the parent.<sup>38</sup> Even in the *Diane B* case, however, the evidence tended to emphasize the fault of the parent in denying the child essential parental care. This is attributable to the inevitably close relationship between parental fault and the child’s well-being.

In summary, while most Pennsylvania cases construe section 311(2) to require a showing of parental fault, there is some authority for the proposition that consideration of the well-being of the child is relevant.<sup>39</sup> Under the present state of the law, however, termination of parental rights cannot be achieved solely because it is in the best interests of the child.

### IV. Effect of Section 311(2) in Termination Proceedings

It is necessary to view section 311(2) as a distinct ground for termination of parental rights.<sup>40</sup> Failure to recognize it as such, but to treat it instead as abandonment grounds treated under section 311(1), reduces its impact and ignores the legislative purpose.

In *In re Geiger*<sup>41</sup> the court pointed out that under section 311(2) three things must be shown before the natural parent’s rights in the child will be terminated:

- (1) repeated and continued incapacity, abuse, neglect or refusal must be shown;
- (2) such incapacity, abuse, neglect or refusal must be shown to have caused the child to be without essential parental care, control or subsistence; and

---

34. 456 Pa. 429, 321 A.2d 618 (1974).

35. *Id.* at 434-35, 321 A.2d at 621.

36. *Id.* at 433, 321 A.2d at 620.

37. PA. STAT. ANN. tit. 1, § 311(2) (Purdon Supp. 1976-77). *Accord*, Loar Adoption, 56 Pa. D. & C.2d 618 (C.P. Mercer 1972); Janusek Adoption, 23 Pa. Fiduc. 59 (C.P. Alleg. 1972).

38. *Appeal of Diane B.*, 456 Pa. 429, 433-34, 321 A.2d 618, 620 (1974).

39. Janusek Adoption, 23 Pa. Fiduc. 59 (C.P. Alleg. 1972); Adoption of JRF, 27 Som. 298 (Pa. C.P. 1972).

40. *In re Geiger*, 459 Pa. 636, 331 A.2d 172 (1975).

41. *Id.*

(3) it must be shown that the causes of the incapacity, abuse, neglect or refusal cannot or will not be remedied.<sup>42</sup>

Although this section is an expansion of the court's power to terminate parental rights,<sup>43</sup> all three elements must be established by compelling evidence.<sup>44</sup> There can be no termination without the presence of all three.

The second element enumerated in *Geiger*, deprivation of essential parental care, control, or subsistence, has presented the most problems.<sup>45</sup> The confusion arises out of the imprecise official comment to the section, which reads too much into it. Earlier lower court decisions that construed the official comment reasoned that the best interest and welfare of the child is an important consideration.<sup>46</sup> While the best interest and welfare of the child are the central considerations in a custody case, they were not material to the termination of parental rights under the 1925 Act.<sup>47</sup> Nor does section 311(2), read in its entirety, make it the central issue, notwithstanding the official comment.<sup>48</sup> Until the role played by the child's welfare in determinations under this section is clearly articulated, confusion in the lower courts will continue.<sup>49</sup> Reference in the section to "essential parental care" permits adoption in cases where it would not be possible under section 311(1).

The parent's obligation to the child is a positive duty that requires affirmative performance.<sup>50</sup> A parent must provide care, control, and subsistence and has the duty to love, protect, and support the child.<sup>51</sup> In *Adoption of JFR* the court focused on parental duties:

Parenthood is not . . . mere biological status, or passive state of mind which claims and declines to relinquish ownership of the child. It is an active occupation, calling for constant affirmative demonstration of parental love, protection and concern.

. . . [A parent] must exert himself to take and maintain a place of importance in the child's life, and must exercise reasonable firmness in declining to yield to obstacles. Otherwise, he cannot perform the job of parent, and the parent-child relationship will deteriorate as the absent parent more and more gives his thoughts, attentions, concern and priorities to his own life and associates.<sup>52</sup>

---

42. *Id.* at 639, 331 A.2d at 174.

43. *Id.* at 639, 331 A.2d at 173, citing Appeal of Jones, 449 Pa. 543, 547, 297 A.2d 117, 119 (1972).

44. *Id.*

45. *In re Rinehart*, 70 Pa. D. & C.2d 739 (C.P. Adams 1975).

46. Adoption of JRF, 27 Som. 298 (Pa. C.P. 1972).

47. Jacano Adoption case, 426 Pa. 98, 231 A.2d 295 (1967); Gunther Adoption case, 416 Pa. 237, 206 A.2d 61 (1965).

48. JOINT STATE GOVERNMENT COMMISSION, OFFICIAL COMMENT, ADOPTION ACT § 311 (1970).

49. *In re Rinehart*, 70 Pa. D. & C.2d 739 (C.P. Adams 1975).

50. See, e.g., Smith Adoption Case, 412 Pa. 501, 194 A.2d 919 (1963).

51. Appeal of Diane B., 456 Pa. 429, 321 A.2d 618 (1974); Wischmann Adoption case, 428 Pa. 327, 237 A.2d 205 (1968).

52. Adoption of JRF, 27 Som. 298, 304-05 (Pa. C.P. 1972).

Viewed in this light, section 311(2) opens a wide range of possibilities. There are many cases in which the parent does the minimum necessary to avoid termination under 311(1), such as provide support, undertake occasional visitations, and show minimal concern.<sup>53</sup> Minimal conduct that does not give the child essential parental care would not preclude a termination under this section.<sup>54</sup> The section would apply when the parent is permanently incapacitated, either mentally or physically,<sup>55</sup> and, in the author's view, when a parent is a long-term prisoner who does the minimum necessary to avoid termination under 311(1).<sup>56</sup>

The section applies to cases in which a child is in the custody of one parent and a step-parent, and the other natural parent never sees, communicates with, or in any way interacts with the child other than to pay ordered support. While payment of support was held to preclude termination under prior law,<sup>57</sup> it would not preclude termination under section 311(2), since the parent's neglect "to take and maintain a place of importance in the child's life"<sup>58</sup> would deprive the child of that parent's essential care.<sup>59</sup> The fact that someone else is providing for the needs of the child does not excuse the performance of the parent.<sup>60</sup>

A review of cases that have considered section 311(2) reveals that some of the problems encountered arise from the character of the proof offered rather than from a refusal of the court to apply section 311(2). In *Appeal of Jones*<sup>61</sup> the evidence offered in support of termination included the natural mother's guilty plea to a charge of being an accessory to the rape of one of her daughters. The other evidence was two written documents, both admitted into evidence by the lower court over the objection of the natural mother's counsel. The one was a summary of the child welfare agency's history of the natural mother and her children and contained a recounting of "facts" accumulated by the agency. The "facts" alleged in the summary were not proved by collateral evidence and the report was held to be hearsay by the supreme court. The other

---

53. See, e.g., *Vaders Adoption case*, 444 Pa. 428, 282 A.2d 359 (1971) (decided under the 1925 Act).

54. *Appeal of Diane B.*, 456 Pa. 429, 321 A.2d 618 (1974).

55. *Adoption of M.P.*, 24 Pa. Fiduc. 210 (C.P. Lanc. 1974); *Loar Adoption*, 56 Pa. D. & C.2d 618 (C.P. Mercer 1972); *Adoption of Szopinski*, 56 Erie 78 (Pa. C.P. 1972).

56. *In re Adoption of McCray*, 460 Pa. 210, 331 A.2d 652 (1975). Here the court suggests that the father could have avoided termination under section 311(1) if he had taken advantage of his visitation rights or made a sincere effort to inquire about his child.

57. *Vaders Adoption case*, 444 Pa. 428, 282 A.2d 359 (1971) (decided under the 1925 Act).

58. *Adoption of JRF*, 27 Som. 298, 304 (Pa. C.P. 1972).

59. The essential parental care referred to is the care required of the parent himself and not someone else. A parent should not be deemed to have provided that care if he simply provides the financial support and neglects the greater portion of those other duties that the court in *JRF* outlines. See *Adoption of JRF*, 27 Som. 298 (Pa. C.P. 1972).

60. *Smith Adoption Case*, 412 Pa. 501, 194 A.2d 919 (1963) *In re Lightner*, 60 Pa. D. & C.2d 64 (C.P. Lyc. 1972).

61. 449 Pa. 543, 297 A.2d 117 (1972).

document was a written statement of a physician made the day before the hearing:

At the time I examined Mrs. Jones I felt that she was definitely psychotic and incapable of appropriate reasoning. Also, I indicated that I felt this problem was not situational, but rather of long duration, or having prior occurrence. I further felt that the prognosis was poor unless immediate treatment was utilized.

Without a current psychological examination and evaluation I would be unable to comment on her present condition; however I feel certain that she is a very unstable individual who is incapable of assuming the responsibilities of homemaker and wife. Her ability to be an adequate mother would appear to be against reason and good judgment.<sup>62</sup>

The court ruled this evidence inadmissible as hearsay, but did point out what its affect would have been, had it been properly adduced at trial.

[The physician's] statement is illuminating. It represents precisely the quality of evidence substantively necessary to support a finding of continued and irremedial parental incapacity—the quality of evidence capable of sustaining an order of involuntary termination of parental rights under the 1970 Adoption Act.<sup>63</sup>

Similarly, in *Shaeffer Appeal*<sup>64</sup> the court reversed a termination under section 311(1) because it felt that under the circumstances there was insufficient evidence of a settled purpose of relinquishing parental claim. It then remanded the case to the lower court to allow the adopting parents to pursue the issue whether the natural parent had evidenced such a continued and irremedial parental incapacity as would justify a decree under section 311(2).<sup>65</sup>

An example of the successful use of section 311(2) is the *Appeal of Diane B.*<sup>66</sup> Even though the petition for adoption in that case was cast in the language of section 311(1), the court approved termination of parental rights under section 311(2). Although the facts in that case would not support a termination under section 311(1) because there was evidence of support and visitation sufficient to defeat the six month requirement of that section, the court had no difficulty in finding that this minimal conduct on the part of the parents would not defeat a termination under section 311(2). This suggests that proper preparation and reliance on section 311(2) will enable the courts to broaden its application when there is continued and irremedial parental incapacity, abuse, neglect or refusal.

---

62. *Id.* at 550-51, 297 A.2d at 121.

63. *Id.* at 551, 297 A.2d at 121.

64. 452 Pa. 165, 305 A.2d 36 (1973).

65. *Id.* at 171, 305 A.2d at 40.

66. 456 Pa. 429, 321 A.2d 618 (1974).

## V. Conclusion

The foregoing discussion reflects the impact of the Adoption Act of 1970 on broadening the grounds for involuntary termination. Although the welfare and best interest of the child have not become determinative considerations, children who lack essential parental care, but who have not been totally abandoned, are more adoptable than ever before.

Parental fault remains, as it should, a significant element. An adoption, unlike a custody matter, is a final decision on the parent-child relationship. Unless we totally ignore parental rights and focus on what the state may deem best for the child, some concept of fault or inability of the parent must be maintained as part of the termination process.