214 Va. 639

IN THE SUPREME COURT OF VIRGINIA
AT RICHMOND

Record No. 8272

IN RE ADOPTION OF PETRA SEBISCH, AN INFANT,
BY WILTON R. CLEMENTS AND ILSE FRIEDA CLEMENTS

Viktoria Annaliese Szemler and
Tibor Szemler,
natural parents of child APPELLANTS

v.

Wilton R. Clements and
Ilse Frieda Clements,
proposed adoptive parents of child APPELLEES

APPENDIX B

Complete Trial Transcript

I. J. Crickenberger
Crickenberger & Moore
Skyline Center
5205 Leesburg Pike
Baileys Crossroads, Va. 22041

Counsel for Appellants

Peter Heidenberger
Lambert, Furlow, Elmore &
Heidenberger
1629 K Street, N. W.
Washington, D. C.

Of Counsel for Appellants

VIRGINIA:

IN THE CIRCUIT COURT OF FAIRFAX COUNTY

In Re: Adoption of PETRA SEBISCH an infant, by WILTON R. CLEMENTS and ILSE FRIEDA CLEMENTS, his wife.	Chancery No. 31508

Fairfax, Virginia

Thursday, June 22, 1972

The hearing commenced at 10:00 o'clock, a. m.

BEFORE:

The Honorable James C. Cacheris, Judge.

APPEARANCES:

For the Petitioner:

F. MATHER ARCHER, ESQ.
10560 Main Street
Fairfax, Virginia 22030

For the Defendant:

I. J. CRICKENBERGER, ESQ.
2400 Wilson Boulevard
Arlington, Virginia 22201

C O N T E N T S

WITNESS:	DIRECT	CROSS	REDIRECT	RECROSS
Gwendolyn French	4			
Irene Nassor	9			
Elaine Wolf	18	24	24	
Ilse Clements	26	88	93 104	99
Christine Kehne, M. D.	111	127	136 140	137
Wilton R. Clements	141	150	153	157
Ilse Clements	166	176	179	

E X H I B I T S

EXHIBIT	FOR IDENT.	IN EVID.
Petitioner's Exhibit No. 1A and 1B	43	43
Petitioner's Exhibit No. 2A and 2B	107	107
Petitioner's Exhibit No. 3A and 3B	107	107
Petitioner's Exhibit No. 4A and 4B	108	108
Petitioner's Exhibit No. 5A and 5B	108	--
Petitioner's Exhibit No. 6 and 7	155	155
Petitioner's Exhibit No. 8	161	161
Defendant's Exhibit No. 1	162	162
Defendant's Exhibit No. 2A and 2B	162	162
Defendant's Exhibit No. 3A and 3B	165	165

P R O C E E D I N G S

. . .

Thereupon

GWENDOLYN FRENCH

was called as a witness, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Mrs. French, would you state your name and address, please?

A Gwendolyn M. French, 7242 Evanston Road, Springfield, Virginia.

Q You are married and have two children?

A Yes, I do.

Q What is your relationship to Mr. and Mrs. Clements?

A I'm a neighbor of Mr. and Mrs. Clements.

Q Do you know them fairly well?

A Oh, yes, I know them well. We've lived two doors away for over three years.

Q All right. Do you know the child, Heidi?

A Yes, I do.

Q Have you visited in the home of Mr. and Mrs. Clements?

A Yes, I've gone to their home with a package for Heidi.

Q Have you had occasion to observe Mr. and Mrs. Clements and Heidi in a parent-child relationship?

A Yes, I have. I've seen their relationship when they were playing outside, you know, outside with her bicycle and with her chores. I've seen the three of them going off in the car together, or going for walks together.

Q Are you familiar with adopted children?

A Yes, I am.

Q How is that?

A I have two adopted children.

Q What are their ages?

A One is six and a half, and the other one is two and a half.

Q I see. Now, can you tell us -- can you give us an opinion of the relationship between Heidi and the Clements, as a mother of two children and a neighbor of theirs?

A Yes. It's a close relationship, I would say. It's a very natural parent-child relationship. In comparing today with two years ago, when she first came, I would say she was a child who was, you know, people were

doing for her.

If I would come to see her, she would know I was there, but wouldn't pay me very much attention.

THE COURT: This is two years ago that you're talking about?

THE WITNESS: Yes. Whereas, now, if she sees me outside, or to come to my home, she says, "Hi," and you know, is very outgoing and has kind of developed her own personality, I would say.

But she could not relate to me or relate to anyone else in this manner two years ago. It was just, people were there and she was there, and now she sort of relates to people and is more outgoing in her relationships with them.

BY MR. ARCHER:

Q I see. Does she seem to be a happy healthy child?

A Yes, she is. She's adjusted to her home environment, I would say.

Q Now, I direct your attention to the time on or about October 16, 1970, and ask you to relate what, if anything, occurred at that time?

This was in October, about the middle of October, 1970. I believe you had contact with Mrs. Clements on

that day.

A Yes, I did. She came to my door, and there was a gentleman standing on the sidewalk, and Mrs. Clements was very upset. I led her to my home, at which time she stated that the gentleman in question was trying to talk to Heidi, and wanted her to come with him.

Q Did you observe this man doing anything or just standing there?

A He was standing on the sidewalk, and she was already in my doorway.

Q When you saw her, did you observe anything that occurred prior to that?

A No, I didn't.

Q Did Mrs. Clements tell you at that time, anything, or any more details about what had occurred before she got to your door?

A Yes, she said that she had gone for a walk with Heidi to the letter box, and that the gentleman in question had stopped and talked to the child and asked her her name, if she was Mrs. Clements, and he wanted the child to come with her and --

Q (Interposing) With him, do you mean?

A With him, yes. And at the same time tried to talk

her and the child into coming to see the biological mother, where the mother was staying.

Q All right. Mrs. French, would you say that Heidi has prospered while she's been with Mr. and Mrs. Clements?

A Yes, sir; I would.

Q Do you consider that she has a good home and a good life?

A Yes, she does. She has parents that love her and give her excellent care.

Q I see.

MR. ARCHER: That's all I have.

THE COURT: Mr. Crickenberger.

MR. CRICKENBERGER: No questions, Your Honor.

THE COURT: Do you want this lady excused?

MR. ARCHER: She may be excused.

THE COURT: Any objections, Mr. Crickenberger?

MR. CRICKENBERGER: No, sir.

THE COURT: All right. You are excused and free to go or you may remain. Thank you, Mrs. French.

(Witness excused)

- - -

Thereupon

IRENE NASSOR

was called as a witness, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Mrs. Nassor, would you state your name and your residence address, please?

A Irene Nassor, 7236 Evanston Road, Springfield --

THE COURT: (Interposing) Spell your last name, please.

THE WITNESS: N-a-s-s-o-r.

THE COURT: Thank you.

THE WITNESS: 7236 Evanston Road, Springfield, Virginia.

BY MR. ARCHER:

Q And where is that in relation to Mr. and Mrs. Clements home?

A Directly next door. We share adjoining walls.

Q I see. And how long have you known Mr. and Mrs. Clements?

A Three years.

Q And how long have you known Heidi?

A Two. I picked her up at the airport with her parents when she came.

Q Now, have you had an occasion to observe Heidi and Mr. and Mrs. Clements in the parent-child relationship?

A Yes, quite frequently.

Q Have you had an occasion to visit in their home and to observe their home life?

A Yes, and they have also been in my home quite a bit.

Q Let me ask you one question in digression a moment:

What is your occupation?

A I'm a learning disability teacher for Fairfax County.

Q And in that capacity, do you have quite a bit of contact with children?

A Yes.

Q Do you, as a part of your job, or profession, evaluate children?

A Yes.

Q And is it part of your profession, part of your job to evaluate parent-child relationships?

A Slightly. Actually the psychologist on the team

does that. I mean that I'm in a cursory observation.

Q You would have observatory experience in that.

A Yes, but that isn't part of my diagnostic relationship.

Q All right. Now, you say that you picked the Clements and Heidi up at the airport.

A Yes.

Q When was that?

A Well, it was in the spring. I mean, I can't remember the date.

Q Of what year?

A Was it '69? No, '70, I think.

Q Seventy.

A Yes.

Q Did they come in on a commerical airliner or on a military airline?

A Well, I actually didn't see them land.

Q I see.

A But they were at Dulles.

Q Dulles airport.

A And as far as I know, that's commercial.

Q Now, can you describe Heidi to the Court at that time?

A She was rather withdrawn at that time. She made no attempt at verbalization. I normally do work with younger children, so I've picked up a few clues here and there. It was hard to draw her out.

I didn't want to push her, knowing that we were all strangers to her. The only one I did see her relate to slightly, was my son, who at that time was twelve.

But she was not what you would call a typical two-year-old, as far as curiosity or exuberance and so forth. She was rather quiet. The first time that she came into my house, she would just sit, even though my son would take toys out and try to talk to her.

I just made no conclusions, but she was quiet, very quiet.

Q Now, can you describe the progress she has made, if any, since then?

A Now, she is quite outgoing. Immediately, upon entering my house, she will go to the piano, and there is none of the hesitancy or quietness. If she sees me on the street, she runs up to me and throws her arms around me.

She has gained confidence from the home situation. It's a very stable home situation; she's sure of it. And I think this has helped her to know the

neighbors and the accepting of their neighbors and surroundings have helped her to accept them, too.

Q Would it be fair to say that you believe that she has prospered since then?

A Oh, yes.

Q Can you give us your opinion to Mr. and Mrs. Clements as parents.

A I think they are very concerned parents in all aspects. Not just in her physical well-being, but in her mental well-being.

I noticed that she was not picking up words -- at two there's very little verbalization, many children, some are slow, but I felt that she should be picking up words.

I did push Mrs. Clements to make sure that she did speak English to her, knowing that a bilingual patterns are sometimes confusing. In my presence, except for maybe a word, the family has used English all the time.

I also talked to her once about a problem my son had, learning to speak, his adenoids were enlarged and so forth, and immediately they had a checkup for her. They have pursued this, and she is going to a speech pathologist now, because there is some problem.

It is not just the concern of having a child, but concern about her emotional stability and her general health as well.

Q Would you tell the Court whether you think the Clements are family orientated people or not?

A Extremely so. And there's a very good rapport between Mrs. Clements and Heidi, and the grandparent relationship is very good.

They are very concerned people in the community, you know, with neighbors, and now they're helping me out. For example, last night with the flood and everything, they are the type who call up to see, to make sure you've checked your basement, because they had noticed leakage, you know, that type of thing.

They're very close knit with their family.

Q THE COURT: Does the grandfather live with them?

THE WITNESS: No, but he lives in the same area, though. Very good relationship.

BY MR. ARCHER:

Q Now, directing your attention to the month of October, 1970, about the middle of October, did anything occur during that time that came to your attention?

A Yes. I have a sister who lives five houses

away from me, in the same town house development, and since I work, I do stop in to see her occasionally. And when I stopped in, she asked me if I had friends from New Jersey -- because I had just moved from New Jersey three years ago -- who had a Mustang.

And I said, "No, not that I can recall."

And she said, "Well, there has been one that has been parked in different parts of the complex."

She said, "I noticed it when I went out to have my hair done this morning, and when I came home from grocery shopping."

And she saw him from her window, from the upstairs window, and she said, "The car was very noticeable and it looked like someone was waiting for you to come home from school, and they were not sure if you were home."

As I was leaving, she said, "I do not see the car right now."

And as I was leaving, she said, "Oh, there it goes again."

And I did get a glimpse of it.

And I said, "No, they don't look like a family I know."

The following day, I came home from school and

as I was getting out of my car, a maroon car drove up, and a man got out, and he had an English-American dictionary in his hand. I mean, I didn't know it then, but he kept referring to it.

And he came up and started to talk to me. I know no German, so I was not really too aware of what he was trying to say, except I did understand Clements, and he was pointing to the house.

And I said, "Yes, that's where they live."

And he was saying something else, and then he'd look up a word, and I got from the conversation that he wanted to know if I knew where they were.

And I said, no, that I'd been to work all day, and I did not know. And then he was saying a few other things which again I did not understand, but he was trying to make some relationship with the woman who was in the car. She at this point did not get out.

And I kept shaking my head and saying, "I'm sorry, I don't speak German, I don't understand," and with this she got out and she showed me a photograph that had her picture and the child Heidi.

And she started saying a few things, and again I did not understand. I kept shaking my head and saying,

"I don't know where they are, I don't know what you're saying, and I'm sorry I can't help you."

But, of course, by this time I was aware that it wasn't just a friend from Germany who happened to be looking for them.

Q Well, did you see that car parked anywhere else at any other time?

A Yes. The next day I was about to go out food shopping, and my son was with me, and as we were pulling out of our complex, about a block up, I'd say, I saw the maroon car again.

Q Parked?

A Parked. So I said to my son, "Take my pen and my purse and my bank account book and write the number of the car down when we go by," because I had to speak to the Clements that evening.

So he wrote the number down, and I rode around the block and I was coming back, and as I was, the car had moved and the woman got out of the car, went up to the Clements' house, opened the screen door, placed some object there, and then drove away.

I waited, and then went back and called the Clements and told them I had the number, and that there

was something in their door. And I did not see the car again after that.

Q All right.

MR. ARCHER: That's all I have.

THE COURT: Do you want this lady excused?

MR. ARCHER: Yes, sir.

THE COURT: Any objections?

MR. CRICKENBERGER: No objection.

(Witness excused)

- - -

Thereupon

ELAINE WOLF

was called as a witness, and after having been previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Miss Wolf, would you state your name and occupation, please?

A Elaine Wolf, social worker, Fairfax County, Department of Social Services.

Q In that capacity have you been assigned to the Clements' adoption case?

A Yes.

Q When did you first come into contact with this matter?

A The case was referred to me from the Department of Welfare and Institutions in June, 1970. The family, however, had been known to the agency prior to that. We had investigated their home, in relation to their bringing Heidi to the United States. I, however, did not do the previous investigation.

Q I see. When was the previous investigation begun?

A We received the request from the International Social Service, New York Branch, in October of 1969. And the Clements were then seen on November 10th, 1969, and November 18th, 1969, and a report was mailed to New York, recommending their home and indicating that they could provide a good home situation for Heidi.

THE COURT: When was the report mailed from New York?

THE WITNESS: It was mailed on November 26th.

THE COURT: Sixty-nine.

THE WITNESS: Sixty-nine, yes. And then on March 16th, 1970, we sent a copy of that study to the U. S. Immigration Department so that a visa could be

obtained for Heidi.

Q Now, you have -- strike that. This report and investigation, prior to your coming into personal contact with the case, is a part of your file?

A Yes.

Q I see. And you have studied it?

A Yes, sir.

Q And I believe your testimony was that you found in that prior report of the investigation that you could recommend that the child be placed with the Clements, is that correct?

A Yes.

Q Now, when you got the case, I take it, it was the result of the institution of adoption proceedings.

A That's correct.

Q And how many times have you visited the Clements' home yourself?

A I visited the Clements' home twice. I had one office interview with the Clements just before Anneliese and Mr. Szemler came to the United States. And then I had several telephone conversations with them during the period of time the Szemlers, Anneliese and Mr. Szemler were in the United States.

Q You had telephone conversations with whom?

A With the Clements.

Q With the Clements. Now, when was the last time you investigated, or looked into the home life of the Clements?

A On June the 8th.

Q Of this year?

A Of this year, yes.

Q And what are your conclusions as to the adoption?

A I feel that I can still recommend the Clements as a very good family for this child. In the past two years, Heidi has progressed. She's developed into a very happy and healthy little girl. There has been an increase in Mr. Clements' salary. He has gone up $3,000. They have maintained their debt which is not very great. He has increased his insurance $7,000.

They have shown an interest in exposing this child to other children by putting her in a local nursery school; one of the good ones in the area.

And they have initiated speech therapy for Heidi, who does have a speech problem.

Q Is it fair then to say that you would recommend adoption?

A Yes, I would.

Q Now, you're familiar with the report of, I believe, Miss Daisy Young, the Commissioner of Welfare which is in the court file.

A That is based on my investigation, and also the State Welfare Department does have copies of the original report that was sent to ISS in November of 1969.

Q It's my recollection of that report that the recommendation is for adoption, pending investigation into the actual guardianship propriety.

A That's right. There's been a question about that.

Q So the only qualification they had was, who was the guardian.

A Right.

Q Have you had occasion to look into, or the opportunity to look into the background before Heidi came to Mr. and Mrs. Clements, or have you gained any knowledge of that background?

A You mean the background that she was in?

Q Yes.

A The only information I have is letters that were sent to us by International Social Service. The first letter which was the request for the original investigation.

And at that time, ISS had wrote to us, based on correspondence they had received from their German branch who had been pressed by the German youth authorities to make the investigation here. And this letter which was dated --

MR. CRICKENBERGER: Your Honor, at this stage I don't want to be sticky about objecting when it comes into this case because of the nature of the case. I want to allow Mr. Archer all the latitude that I can.

I would hesitate not to enter an objection if Miss Wolf is going to testify to what has been concluded in Germany, or based upon testimony she has no knowledge.

If she's going to testify now to opinions or conclusions stated in correspondence from someone overseas, I think I would have to enter an objection. If she's going to testify to something of her own personal knowledge, that's perfectly all right.

THE COURT: I will sustain your objection on that point.

You understand, if you know something of your own personal knowledge as to her background, you can tell us about that.

THE WITNESS: I've never met the woman. All I

have is information that was told to me through correspondence.

THE COURT: Then I would sustain his objection.

BY MR. ARCHER:

Q Let me ask you this Miss Wolf: can you tell us from your file, or what is in your file, whether or not there was an investigation made of the home where Heidi was in Germany by the German authorities?

A Not that I know of, no.

MR. ARCHER: That's all I have.

CROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Miss Wolf, have you ever met either Mr. or Mrs. Szemler, the natural parents of the child?

A No.

MR. CRICKENBERGER: I have no further questions.

THE COURT: Do you want this lady excused or do you want her to remain on call?

MR. ARCHER: Let me ask one question.

REDIRECT EXAMINATION

BY MR. ARCHER:

Q Have you gained from Mr. and Mrs. Clements, any knowledge of Mr. or Mrs. Szemler, or Anneliese or Mr. Szemler, in your discussions with them?

A They had discussed Anneliese and the type of life

she had been leading over in Germany during her marriage to Alfred Sebisch and her relationship with Mr. Szemler, yes.

Q And what were your conclusions that you learned from those discussions with Mr. and Mrs. Clements?

MR. CRICKENBERGER: I would have to put in an objection here.

THE COURT: Sustained.

MR. ARCHER: Your Honor, I think this is part of her investigation.

THE COURT: It's based on hearsay.

MR. ARCHER: But Mr. and Mrs. Clements are here and I think --

THE COURT: (Interposing) Well, they can tell us.

MR. ARCHER: I'm asking for the conclusions she drew as a professional worker as a part of her investigation.

THE COURT: She's drawing conclusions based on what the petitioners are telling her. It's still hearsay.

MR. ARCHER: Note my exception.

THE COURT: All right.

MR. ARCHER: That's all I have.

THE COURT: Do you want her excused?

MR. ARCHER: Yes.

THE COURT: Any objections, Mr. Crickenberger?

MR CRICKENBERGER: No objections.

(Witness excused)

- - -

MR. ARCHER: At the outset I would like to say that Mrs. Clements has a heavy German accent and she is trying to do her best to make herself understood.

Thereupon

ILSE FRIEDA CLEMENTS

was called as a witness, and after being previously duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Mrs. Clements, would you state your name and age?

A Ilse Clements --

Q (Interposing) I-l-s-e Clements?

A Yes.

Q And your age?

A Thirty-eight. Evanston Road, 7238.

THE COURT: Can you keep your voice up Mrs. Clements so we can all hear you?

BY MR. ARCHER:

Q And what is your relationship to Heidi?

A Heidi is my niece, and now my little girl.

Q Your sister then --

A (Interposing) My sister, Anneliese, daughter.

Q She's Anneliese's daughter and Anneliese is your sister.

A Yes.

Q All right. Now, when was Heidi born?

A Heidi was born 1968, the 17th of May.

Q I see. And she was born in Frankfurt, Germany?

A Yes.

Q And what sort of contact had you had with Anneliese after Heidi's birth, but before you got into negotiations with her for the adoption?

A My sister, Anneliese, wrote to me and told me that she had this little girl and she don't know what to do with it, to give it up or to put it in the welfare home. So after then she had to go. She cannot use the child.

Q She what?

A She cannot use the child. Then I wrote her a letter and I told her that we have our papers for adoption in Virginia Beach and my husband was out to sea. I told her I would talk to him, and if she wanted to give up the

child, we could have her for adoption. I would have to talk to my husband first and see what he would say to that.

So she wrote us back, and say we could have her.

Q Now, wait a minute. You're using that German word again, us. She wrote us --.

A Oh, she wrote us back that we could have the child. And then when my husband come back, I told him about it. And he told me the only way he would go into this is if we could do it through the welfare, if she would go through welfare, and she said, yes.

And then she wrote us back the address from the welfare, Kriftler Street, Frankfurt.

Q Kriftler what?

A Kriftler Street, Frankfurt.

THE COURT: Can you spell that?

THE WITNESS: It's in the papers.

MR. ARCHER: Wait a minute, please, Your Honor.

THE COURT: All right.

MR. ARCHER: K-r-i-f-t-l-e-r. Is that right?

THE WITNESS: Yes, 68.

MR. ARCHER: And what is that?

THE WITNESS: That's the welfare department we were just talking about.

BY MR. ARCHER:

Q And when was this correspondence between you -- this first correspondence about Heidi?

A Well, I got letters from her before, but I didn't know about Heidi.

Q No, I mean --

A (Interposing) This was sometime after the baby was born.

Q Was it in 1969?

A No, I think it was in '68; beginning in the late '68 or early '69.

Q Late '68 or early '69, that this correspondence began.

A Yes.

Q And your testimony is that she responded that she would be willing to let everything be handled through the welfare.

A Yes.

Q All right. Did you have any further contact with her after that initial correspondence?

A I got over to Germany.

Q When was that?

A This was 1970, the 29th.

Q Let's not get there, yet.

When she said, in her letter, that in early '69, apparently, that she was willing to let everything be handled through welfare, what happened then?

A Oh, she wrote to me and told me that she needed some money because the man with the child would have nothing to do with her.

Q Who's the man?

A Mr. Szemler. I didn't know then who the name was, she only say the man. So my husband and I sent her some money. It was 400 marks. No, 300 marks, which was then $75.

After that I found out I had to pay from then on because she was very bad off. I always send her some money in an envelope, sometimes $25 or $20, sometimes more and sometimes less. The lowest one was maybe $20.

THE COURT: How often?

THE WITNESS: Each month I send her some, sometimes twice a month, because we get paid twice a month.

BY MR. ARCHER:

Q All right. Now, when was the next letter you had from her about your taking Heidi?

A This was before Christmas.

Q 1969?

A Yes. That is when she asked me again and she said, that "Christmas is at the door and the little girl and I have no clothes and Christmas is coming and I can buy nothing for my children for Christmas. I don't like Christmas at all. I wish there wouldn't be a day like this."

So we sent money again. It was no big amount but we sent it through a bank that was open. During this time.

Q Well, during this time, were any arrangements made about transferring Heidi to you?

A (No response)

Q Between you and Anneliese?

A Yes, through the welfare, in November, came and saw.

Q THE COURT: November of '69?

THE WITNESS: This was '69.

THE COURT: November of '69.

THE WITNESS: Yes.

BY MR. ARCHER:

Q She had started arrangements through welfare.

A Yes.

Q And you had started over here.

A Yes. Oh, one time, in the middle of the summer --

Q (Interposing) Of what year?

A Of '69. Well, after I wrote, after my sister -- my husband wrote over to the welfare and make all the letters and the papers out, immigration papers. And he told me that certain things he had to sign and he didn't know all the whole deal about it, and she should tell us about if there's more papers to be signed. So we didn't hear from her for awhile and then in middle summer we heard from the welfare lady.

And she say my sister couldn't make up her mind for sure. She want to talk to her again.

Q About what?

A About adoption. She wanted to talk to her again.

Q This was in summer, 1969?

A Yes. And two months later we got a call from the welfare here. And the lady say that she had some report for adoption over there and she have to come out to the house for interview.

Q I see. Now, this was late '69.

A This was late '69, yes.

Q Now, did there come a time when you went to Germany for the purpose of taking custody of Heidi?

A Yes.

Q When was that?

A This was 29th of February.

Q Of what?

A The 29th of February.

THE COURT: 1970?

THE WITNESS: Yes.

BY MR. ARCHER:

Q And you arrived, I believe on March first.

A Yes.

Q Where did you stay?

A I stayed with my older sister Elfriede.

Q Elfriede?

A Elfriede Sebisch.

Q All right. Now, did you have contact with Anneliese and Heidi from the time you got there?

A Well, a week later.

Q A week later.

A Yes.

Q And would you tell us about the discussion between you and Anneliese concerning adoption?

A Yes. When I -- well, when she wrote to me, she said the man was not going to both of them, the baby and her, anymore. And when I got to Germany, I found out from my older sister that the man still comes around once in a while.

So I says, "I don't do nothing unless my sister come to me first." I didn't go to her first.

So it was about a week when my niece, Monica, came and said Anneliese found out I was in Germany. So she told her mother and so my sister got to the welfare, Monday morning, a week later.

Mrs. Leichenstein told me, I think --

Q (Interposing) Who's Mrs. Leichenstein?

A She's the welfare lady that worked on the case. And she told her, my sister Anneliese, that I am there and she would like to talk about the adoption case of Petra.

Q Of who?

A Petra.

Q How do you spell that?

A P-a-t-r-a.

Q It's P-e-t-r-a, isn't it?

A In English that's the little girl, Heidi.

Q All right. And did you go down to the welfare office and talk with Anneliese?

A Yes, I got down to the welfare place and my sister was waiting outside and Mrs. Leichenstein had another lady inside.

Q Had what?

A Had another lady in her office, so we had to wait until she got through. And my sister and I got inside and Mrs. Leichenstein told me that my sister wanted to see first if the child would go to us, on my sister, which is my home, first, and then my sister would decide about signing the adoption papers.

But I told her, "No, I will not do that." And whether the child goes with us for adoption or she don't go at all. "I will not take her for one year, two years, maybe three years," it wouldn't be fair to the child.

So, and I walked out and I say, "You'll still get the money I sent her, but the only way my husband and I talk about, is only about adoption." And I walked out.

Then my niece, Monica, came in the evening and told me my mother is mad that I don't want to take the child. I said, "I don't want to have it anymore, give it to someone else."

And I said to Monica, "If she don't want to give it to me for adoption, I cannot take it. I can only take it for adoption. That's the only way. Over here it's a different language, different people, and much different living over here."

Q All right. Now, did you have another discussion

about adoption with Anneliese?

A Yes, and then, two days later I was over to my sister-in-law's house, Ilse. My mother come from the east to the west. And so I walked in and my mother and Ilse was talking to my sister's boy Pater.

My sister's boy Pater come up and say, "Ilse, my mother wants you to come down, the lady wants to talk to you."

And so I got down there, and my sister says, "Mrs. Leichenstein called here and asked for me. And my sister says, "I'm not here, can I tell her?"

She says, "Yes, --"

Q (Interposing) Which sister?

A Sister, Elfriede.

Q All right.

A And Mrs. Leichenstein says, "Yes, Anneliese is down there to sign the adoption papers."

So I got dressed, got down there to the welfare, and when I got to the welfare my sister was still in with Mrs. Leichenstein. And Mrs. Leichenstein showed me a piece of paper, white paper, where she signed her name.

But, I say, "That's not the paper."

And she says, "Oh, no, we have to set the whole

thing off now, and then come back in three days.

So I wait for almost a week and I was running forward and backwards, forward and backwards, and she said, she had no time to set it up.

And then when I come back with my sister, the next time --

Q Which sister?

A Anneliese. She told us --

Q (Interposing) Told who?

A Us.

Q You and Mr. Clements?

A No, Anneliese and me. We have to go and do it by a lawyer. So my sister say, okay. Then at noontime we meet on the Oberplatz, that's a big plaza that's open.

Q Oberplatz, O-b-e-r-p-l-a-t-z?

A Yes.

Q It's a village square.

A Yes. So we make a date for 4:30.

Q 4:30?

A Yes. So when I come back with my sister --

Q Please don't say, "My sister." Say either Anneliese or Elfriede.

A Oh, all right. Elfriede lives on this side and

Anneliese lives on this side. (Indicating) And the Oberplatz is in the middle from both of them. So my sister was, Anneliese, was there already with Viktoria.

Q Viktoria is who?

A That's the one who have a speech problem.

Q That's one of her daughters?

A Yes, Viktoria. And then we got from down there and we got the Dr. Nielsen, to his office.

Q And he is the lawyer?

A He's the lawyer.

Q And he's a notary public?

A Yes. And then we got down there --

Q Who got there?

A Anneliese, my sister, Viktoria, and I got down there, went upstairs to the lawyer. And we had to wait for Dr. Nielsen. He hadn't come in yet, you know, from his court thing.

So we waited for a while and he didn't come, so Mr. --

Q (Interposing) Let me ask you this: during that time did Anneliese say anything about the adoption?

A Yes, she said -- no, I said, "You're sure. You're sure about it."

And I says, "Listen, don't do it if you don't want to. Don't let me take the child and then turn around."

She said, "No, I'm sure. I promise you this."

I say, "Are you sure about it? I will still send you the money. Don't get me involved if you don't want it."

She said, "No, I'll prove it to you. I'll sign the papers again."

And so, when we got to the lawyer, he was not there. So we was waiting for him, had to wait, and a lady said, "Better come back tomorrow and then I can make an appointment, and he'll be here."

Q Now, this conversation you had with Anneliese where you say you asked her if she was sure, and she said, "Yes, I'm sure," was that the day before you went to the lawyer's office the first time?

A No, my sister say this before we got in the office and she sign the papers, Mrs. Leichenstein had a blank sheet, you know. And I asked Mrs. Leichenstein too, if it's true that she really wants it. And she say, yes.

And then I got to my sister's place --

Q Which sister?

A Anneliese. And then I got to my sister's place, Anspacherstrasse, and I say, "Anneliese, show me the piece of paper that you signed."

And I said, "Are you sure you really want it? You know that is for adoption. You know you will be the aunt, I will be the mother."

She says, "Yes, that's fine, that's fine."

And then she says, "You'll see when we set everything up, I'll sign in front of them again, when the welfare sets everything up."

And then the welfare told us the lawyer and she go with me. In fact, she picked the lawyer, herself. It's not me who picked the lawyer.

Q Who picked the lawyer?

A My sister, Anneliese.

Q She picked the lawyer --

A (Interposing) Yes, she told me who to go to.

Q And then you two met at Dr. Nielsen's office.

A No, we met on the Oberplatz, and then we got to Dr. Nielsen.

Q Now, while you were waiting in his office, did you have any further conversation with Anneliese about the adoption?

A Yes, I told my sister, I said, "Anneliese, after you sign, that will be the finish of you, you know that, that I am the mother, you're the aunt."

And she said, "Yes, I know it. I know it."

Q And did she, or did she not, say if she still wanted to do it?

A She says she wants to do it.

Q And then you had to go back to Dr. Nielsen's office the next day.

A The next day at the same time.

Q And did you?

A Yes. We got back and my sister was --

Q (Interposing) Which sister?

A My sister, Anneliese, I'm sorry. My sister, Anneliese, was there earlier on that day than I am. And then we both got up again. And then she read the paper the man -- Dr. Nielsen didn't sign it, it was a Dr. --.

Q It was his partner.

A Yes, his partner. And he said to her, "Read it through good and make sure you understand the whole thing. You know everything?"

And she said, "Yes, the welfare explained everything to me."

And so then she wrote (sic) very slowly, and then she wrote (sic) it again, and then she signed it.

MR. ARCHER: Your Honor, I believe there's a copy of this document in the file, and I'm going to show her the original German document. There's also a copy of the German document in there.

BY MR. ARCHER:

Q Do you recognize that document? (Hands document to witness)

A (Witness examines document) Yes.

Q That's the one that she signed in Dr. Nielsen's office.

A Yes, only it was his partner, not Dr. Nielsen.

Q I realize it was his partner who was there.

A Yes.

Q And that is the one you say that she read over very slowly and carefully.

A Yes.

THE COURT: Is there any objection to the consent?

MR. CRICKENBERGER: I don't believe I've seen it, Your Honor.

THE COURT: We have the translation here. Would you like to look at the file? (Handing file to Mr. Crickenberger)

MR. CRICKENBERGER: (Examines file) No objection.

THE COURT: All right. I'll mark the consent plaintiff's exhibit one. What about the translations? Do you agree that this is a correct translation?

MR. ARCHER: Yes, Your Honor.

THE COURT: Do you have the translation?

MR. ARCHER: No, sir; but that's the translation that came from this original.

THE COURT: All right. I'll mark the consent in German as petitioner's exhibit one, if there's no objection to that.

MR. CRICKENBERGER: No objection.

THE COURT: All right. I'm going to mark that 1A, for evidence. And I'll mark the translation 1B which is in the file, if there's no objection to the translation.

(Thereupon, the documents referred to above were marked Petitioner's Exhibit 1A and 1B, in Evidence.)

BY MR. ARCHER:

Q Now, you were about to make another statement.

A I told the lawyer that my sister, Anneliese, wants the child to be adopted in America.

THE COURT: When did she say that?

THE WITNESS: She say that to me.

THE COURT: At the lawyer's office or where?

THE WITNESS: She said that before we got to the lawyer, I told the lawyer, and my sister Anneliese was there when I told him.

BY MR. ARCHER:

Q All right. Now, do you remember the date that she signed this document?

A It was the first time, the 25th, down there, of March.

Q You were down there at the lawyer's office first on the 25th of March.

A Yes.

Q 1970.

A Yes.

Q All right.

A And then we were down there again the 26th of March, and that was when she signed it.

Q The 26th of March.

A Yes.

Q Did Anneliese say anything about this while she was at the lawyer's office?

A (No response)

Q Did she indicate to you or the lawyer, that she was in agreement?

A Yes, sir; and the lawyer asked her if she understood everything what she signed. She says, yes, she learned from welfare and he didn't have to explain it to her.

Q Then what occurred? Then what happened? What did you and Anneliese do then?

A And then Friday --

Q (Interposing) Did Anneliese talk any more about it during that --

A (Interposing) No. I say, "How you feel now as aunt, and I'm the mother?"

And she said, "I feel good."

"It don't bother me," she said.

Then Monday, we have to go to the police station.

Q Monday?

A Monday.

Q And what was it you said --

A (Interposing) It was Easter Monday. We had to go for a passport.

Q For what?

A Passport.

Q Passport?

A Yes. And so when we got up there, it was the morning -- see Germany has two holidays, it was Easter week, so the day after Monday, I met her at her place --

Q (Interposing) Who?

A My sister Anneliese. And I meet her at her place and we come to the police station. That is where you get your --

Q (Interposing) Passport.

A (Continuing) -- passport. The thing you fill out. And when we got down there to the police station, the lady gives us a blue card.

Q Gave who?

A The lady give me and my sister a blue card. And she wanted us to write, and then she asked for the name of the child.

Q Who did?

A The lady from the police station. And my sister said, "Petra Sebisch. And when the lady looked in the card, she said, "Who is the father?" She said, "He's got to sign."

And my sister say, "I'm not married to him any more. I'm divorced from him."

And she said, "You have to show me on a piece of paper that you have the right to the child."

And she said, "Well, he's not the father. It's some other man."

And she got a little bit mad with the lady from the police. And the lady says, "If I would be you, I wouldn't holler too much around about the poor little child that's somebody else's. I'm only interested in who signs and not who got the rights to it."

So the lady give us the blue card and told us to go to the Jugenamt office.

Q What's the Jugenamt?

A It's the Jugenamt.

Q That's the youth office?

A Yes.

Q Youth office, welfare office?

A No, the Jugenamt is in the middle of Frankfurt.

Q Well, is that called the juvenile office or the youth office?

A Youth office.

Q It's the city officials who take care of guardianships, youth problems, and things like that.

A Yes, guardianships, and people who get drunk and

throw them in jail, and children underage getting in trouble, things like that.

Q All right.

A So she and I, we drove over there, from the police station we drove over there and we got to the youth office. And when we got down there, the little girl told me that we have to go next door to the lady, the name was Heidi. I don't know the family name, I only remember Heidi.

Q That's all right.

A So when we got in there the lady took the paper from Anneliese, she had a whole folder of papers, and took it in there. And then I told the lady that my sister gives me the child for adoption to America.

Q Was Anneliese with you?

A Yes, Anneliese was with me, she was sitting by my side. So the lady told me, she say, "Why don't you do it here? It would be much faster."

And I said, "It's okay with me."

So my sister --

Q (Interposing) Who?

A (Continuing) -- Anneliese. I say, "What you think about it?"

She says, "No, I don't have much time. It will

a long time. I want you to take it to America, and adopt it over there."

So the lady says, "Well, it's up to you."

So then the lady says, "Well, in all the records she's still Alfred Sebisch's child."

Q Alfred Sebisch's child.

A Yes.

Q That is Anneliese's divorced husband.

A Yes. So my sister, she say, there is already -- the child is already to be declared out of wedlock -- illegitimate.

Q Illegitimate?

THE COURT: Did you say it was already declared out of wedlock or it's going to be?

THE WITNESS: She say it would be. And then she say, "You bring me from your lawyer the piece of paper that it says so down here. Then we can sign it."

So we got to the lawyer, my sister and I got to the lawyer up there.

BY MR. ARCHER:

Q Did you and Anneliese --

A (Interposing) Me and Anneliese got up to the lawyer --

Q (Interposing) The lawyer that handled her divorce case?

A The divorce case and this child.

Q Okay.

A So when we got down there, the lady say, "He is not there." Well, I should call him the next day."

So the next day I called the man and then he say, you know, "You have to go to the court and look through the records."

You know, one -- he had a piece of letter already that the child was declared the second--I think it was the second of March sometime.

THE COURT: The tenth of March?

THE WITNESS: 1970.

THE COURT: Okay.

THE WITNESS: She was declared a child out of wedlock and it was not in the record. It was not carried into the record, yet.

Q It was not carried into the record, yet.

A Yes. It was declared, but it was not going into the record.

Q I see.

A So the lady told me if the lawyer would bring

the piece of paper from court, then she could sign it. So this has been running for about three, four times, forth and back between them. And then I got to the welfare and then Mrs. Leichenstein called the lawyer, and the lady in front up there, the lady Heidi, I don't know the lady's name.

Then Mrs. Leichenstein talked to them and I don't know what they said. She talked with Mr. Seegar --

Q Who's Mr. Seegar?

A Mr. Seegar is the head of the welfare section for the --

Q (Interposing) For the youth office? Is he head of the youth office?

A No. He's the head of the section. See, the welfare is different sections in the city. All of the different sections have a head of that section.

Q He's the head of that section of the youth office.

A Yes, he's the head of the section.

Q Of the youth office.

A Yes. And he signed the piece of paper. And then my sister and I, we walked over to the police station and then we had two papers for the passport.

Q Okay. Now, you say this -- how long a period

of time did this take between the time you first went to the police department and the time that the passport was finally issued?

A Four or five days.

Q And you and Anneliese were going back and forth.

A Yes.

Q Back and forth between offices and trying to get this done.

A Yes. And my sister, Anneliese and I got two passport pictures.

Q Got what?

A The passport pictures.

Q The passport pictures?

A Yes. My sister and I got together there with the little girl and then they had the picture. And my sister picked up the pictures the next night. And when I got to my sister's, she give me the picture. And then my sister had to go too, and get the birth certificate for the baby.

Q Birth certificate for the baby?

A Yes. See, I had to have so many for the consulate, so many for the passport.

Q And so many for the passport.

A Yes. And my sister got all that and she give it to me.

Q Your sister who?

A Anneliese.

Q Anneliese got all these things herself?

A Yes, and give them to me. The pictures that we got together in, she picked them up. She picked them up the next day, she picked them up and give them to me. And the birth certificate she did herself. She just give me the birth certificate.

Q I see. Now, during all this time, from the time that she signed the consent in Dr. Nielsen's office, to the time that she delivered the birth certificate to you, did you and she have any conversation about the adoption?

A Yes, we always talked about adoption.

Q And what did she say? And what did you say?

A I always ask. Sometimes like, you know, the birth certificate, she say, "Well, I walked down there to try and get the birth certificate, but I have to come back. He have to make some copies and I have to pick them up in a couple of days. He give me a little pink slip, a receipt, that you have to pick them up."

And I told her again, I told her, "Anneliese,

are you still sure about this whole thing?"

I say, "You know you still can change your mind, Are you still sure?"

And she said, "Yes, I am sure."

And I have repeatedly said, "Are you sure about this whole thing?"

Q Let's go back a minute. You have what?

A I have many times asked her if she still is sure about this whole adoption thing.

And she said, "Yes, what do you want? I tell you I want her to be adopted from you."

Q Okay. Now, did she at any time during this period, indicate that she had doubts about the adoption?

A No, not at all. That's why I don't understand why she do this now. I don't understand the whole thing, or the lies to it.

Q All right. Now, how long after the passport was issued, or the visa issued, did the police department finally sign the book, or whatever it is?

A I had to wait.

Q How long before you got the birth certificate?

A Oh, no, I got the birth certificate before. Yes, I got the birth certificate and the passport pictures

before. See, when we got to the police the first time the lady told Anneliese and me, we have to have birth certificate and we have to have the passport pictures.

And when I got to the consulate too, I had to have passport pictures. You see he told me what all that you need. And then my sister got them all.

Q All right. Then that was a space of about four or five days.

A Yes.

Q All right. Now, what occurred after the time the passport was issued, and you got the passport, what happened then?

A I don't understand what you mean.

Q Well, there came the time when the police department finally gave you the passport.

A Yes. After this, my husband and I, we had to go together to the embassy to put all, you know -- also, I had other things to go, the passport and permission from the mother for adoption. I had to go to the consulate office. And the consulate told me all the other papers I had to bring. She said, before she sign the paper to come to America, we have to interview my husband and me together.

And so I told her my husband is coming over, and I don't know when he'll be in Frankfurt. He goes over there for a meeting for NATO. So I told her this. And she says, "Before he comes, let us know and bring him here, and we have to interview him too, before we sign and okay the papers."

Q And then between the --

A (Interposing) Oh, and then my husband, I had to get papers from him too. You know, what you call, fingerprint paper, and a record from his office and a report from welfare here.

Q I see. Do you remember when it was your husband got over there?

A Yes, my husband got over there the day after -- sometime the day after Monday. Then he was down there Wednesday. I remember it was after Easter. He only stopped over in Frankfurt, he only had one hour difference, and he had to go to a meeting in Wilhemlshaven.

So my mother and I, and my sister Elfriede, Hans and the children, we met him at the airport in Frankfurt.

Q All right. Between that time when your husband came into the airport and the time the police department gave you the passport, how long was that?

A Well, when my husband come in for the hour, just to see us for an hour, and he had to fly on, he couldn't go on home, he had to fly on. The passport was all in walking.

Q Oh, I see.

A The passport was all in walking.. You see, when you put --

Q (Interposing) I'm talking about after the passport was issued.

A Yes.

Q And before your husband got there, not the first time, but the --

A (Interposing) Oh, the second time when he stayed there.

Q Yes.

A Well, my husband come down the Friday night and we picked him up at the airport.

Q Now, how long was that after the police department gave you the passport?

A Oh, there was about Friday -- I got the passport back on Monday and Friday my husband come in.

Q So it was about a week.

A Yes.

Q And did you have any contact with Anneliese between Monday and Friday?

A Yes. I had seen her and I told her that Ray would be there, come in Friday night --

Q (Interposing) Ray?

A That's my husband.

Q Okay.

A My husband would be there Friday night and we'll see her Saturday.

Q Saturday?

A Yes. And I told her we would meet her on the exchange.

Q On the exchange?

A Yes, there's an exchange.

Q That's a place in Frankfurt.

A Yes. This is for the Americans, commissary, post exchange, all this, you know.

Q I see.

A So we said we'd meet her there. And so when my husband and I told her one o'clock --

Q (Interposing) What did she say to that?

A She said, "Fine, I'll be there." And one o'clock --

Q (Interposing) What did she say about Heidi?

A She say, "Well, it's about time he meets her." And then my husband and I met her at one o'clock at the restaurant, the snack bar -- what you call it?

Q Snack bar?

A Yes. We met her outside and she couldn't get in alone, you have to show an ID card to get into it.

Q An ID card?

A Yes. So we met her down there and when we got down there --

Q Was she already there?

A Yes. Oh, yes, she was already there.

Q Was Heidi with her?

A Yes, Heidi was with her.

Q So you all arrived, and what happened?

A My sister handed my husband the child and said, "Here's your newdaughter."

Q And that's your sister, Anneliese, is that right?

A Yes. And then we got to the snack bar and we had something to eat. And then we got to the commissary and got the food, canned meat and stuff for the little one.

Q Okay. Now, this was about the fourth of April?

A Yes, on the fourth of April.

Q It was the Saturday after the Friday he came in.

A Yes. He had all those meetings. He came in late evening, Friday from Wilhemlshaven.

MR. ARCHER: Your Honor, I believe that the '70 calendar will show that Saturday was the fourth of April.

THE COURT: All right, sir.

MR. ARCHER: Do you agree to that?

MR. CRICKENBERGER: I don't agree or disagree. If that date is going to be critical, allow me to look at it just a moment. I don't have a 1970 calendar, but I'm willing to accept that day.

THE COURT: April fourth was a Saturday in 1970.

BY MR. ARCHER:

Q Now, do you say that you and your husband and Anneliese and Heidi went into the snack bar?

A Yes, we had something to eat.

Q And then what happened?

A And then we got to the commissary.

Q Yes.

A And my sister have no way to trade.

Q What?

A My sister have no way for trading. My sister had no ID.

Q Now wait a minute.

THE COURT: I didn't understand that either.

THE WITNESS: Okay. I say it again.

BY MR. ARCHER:

Q Your sister has no what?

A My sister had no much food.

Q Did not have much food.

A Yes. So my husband and I and the little one got into the commissary and my sister, Anneliese cannot get in. Only when you have an ID card, and be a certain age of a child.

Q Okay. You all went into the commissary and did what?

A So we bought food, canned goods, and beans and spaghetti, all things in cans that you don't have to put in the refrigerator.

Q For who?

A For the little one, and for my sister, Anneliese, and for Viktoria.

Q Viktoria is one of the other daughters of Anneliese.

A Yes.

Q And then what did you do?

A And then we talked at home in my sister's place.

Q To whose place?

A Anneliese place on Anspacherstrasse.

Q You and Anneliese and your husband and Heidi were all in Anneliese's place.

A Right. We didn't take the street car, we took a cab. The child was very tired.

Q And then what?

A (No response)

Q What happened then?

A And then we got to her place and then we had a cup of coffee with her.. And the place is a very small place, no stove, no running water, nothing, and just a cook plate. And the room is very filthy, very dirty, and the child is not very well dressed, very poorly dressed, not much clothes. And very smelly and --

Q (Interposing) Who, the child or the place?

A The child's clothes and the place. In fact the whole -- going into the whole place you get an odor of a smelly place. And her room, very small room and there was a baby, a little baby crib in the bedroom that smelled of urine.

On the couch you couldn't sit down, it was so dirty, and greasy, and filthy, and the floor, too. The little one, she used to play on the dirty floor and used to eat

on that.

Q All right. So how long after this was it that you and Mr. Clements and Heidi left Germany?

A We left the 12th of April.

Q The 12th of April?

A Yes. My sister saw the child the last time on Friday when we left on the 12th of April.

Q Mrs. Clements, you have previously testified that it was on March 26th that -- strike that.

During your presence in Germany which I believe was March one through April 12th.

A Yes.

Q You have testified that you visited Anneliese, the place where she lived, on a few occasions.

A Yes.

Q Did you visit her many times or --

A (Interposing) No, I was there many times after the time I met her and Mrs. Leichenstein. The first week I visited her on Anspacherstrasse and I visited her after that when Mrs. Leichenstein and my sister got together at the welfare the first time. Then I also visited her and we had to get a lot of paper work. There's a lot of paper work involved with the consulate before you get

everything settled.

Q All right. Now, during the time that you visited at Anneliese's home, did you have occasion to see Heidi and Anneliese there?

A Yes.

Q Would you describe some of the situations and conditions that you viewed?

A Yes. I was one time over there and we was sitting and talking and the little one got --

Q (Interposing) Who's the little one?

A Heidi. And Heidi got dirty from sugar.

Q From what? Sugar?

A Sugar, yes. My sister, she had no food. She always used to give the little one a pacifier, she used to dump it into the sugar and give it to her.

And the little girl couldn't say, "eat." She used to say like this, show with her fingers what she wanted. (Indicating)

And so then she'd say, "I got nothing." And then she'd take the pacifier and dump it into the sugar and then put it in the little kid's mouth. And sometimes she would take a spoon and eat sugar like that.

And I say, "My god, don't you have nothing to eat

for this child?"

And she say, "No, this house got nothing."

Q What?

A "I haven't got nothing at the house."

So I took the little girl, Heidi, and we got into a store and got some butter, wurst, and some rolls. Wurst is sandwich meat.

Q Liverwurst?

A No.

THE COURT: Hot dog.

THE WITNESS: No, it's not hot dog. In Germany you got a long wurst, like you have salami --

MR. ARCHER: (Interposing) It's a sausage.

THE WITNESS: I guess you call it cool cut over here.

MR. ARCHER: Cold cuts.

THE WITNESS: So we got home and eat it and the little girl, every time she eats, she kind of shovels it in, and, you know, she don't eat like, like, you know, you had to eat all the time. She eats like she's very hungry. And I say, "Heidi, you no can eat like this. You have to be careful or you'll choke yourself."

And I don't think she understood what I said.

I said to her in German.

And the little girl was all greasy and things like that. So my sister had a pot, a water pot on the heating plate, the cook plate, she had a water pot on there with a little top on it. She picked up the top, got a washrag, got it in there and rinsed it out and washed the child's face with it and took the towel and dried her up.

Q BY MR. ARCHER:

Q And what? Took the towel and what?

A Dried her off, both hands.

Q Dried her off?

A Yes. And after a while the little one was going like this. (Indicating) She wanted something to drink. And then my sister took a glass and got in the same pot, took the water out and give it to the kid and the kid drank it.

And then there was one time I was over there, too, and I had to go to the powder room.

Q The bathroom?

A Yes. So my sister took me. The bathroom is three commodes and one long sink and two faucets coming out. That's the only bathroom they have. No showers, no nothing. And so many people are using the same place and this

commode is very filthy, like somebody have diarrhea all over the place. And then the water all over, standing on the floor and everything like that.

So when I saw it, I didn't want to go in, I forgot about it then. And there was a lady coming into the bathroom at the same time, so my sister say, "This is the lady that take my girl to America, what's going to take her for good."

So the lady and I and my sister we talk. And little Heidi in the meantime, was playing in the filthy commode, and, you know, the water and she had her hands over her face.

And I didn't see it right away, and I turned around and I saw her. And I said, "Oh, my god, Heidi, no, no, no."

And my sister say to me, "Let her play in there, she got fun."

And I say, "Anneliese, that's a filthy stuff. She can catch sickness."

She says, "Oh, she hasn't yet."

Q Okay. Anything else?

A (No response)

Q Any other incidents which you observed about Anneliese's care and training of Heidi?

A Yes. Sometimes I used to come over there and there used to be men down there. At first I thought it was Mr. Szemler. So long as he was there I never said nothing.

But she said, no, it's a fellow that lives there.

Q A fellow that lives there?

A Yes, he lives there at the welfare place, too. And so she had -- she sent him out.

Q Where was he?

A Pardon?

Q Where was he?

A He was living next door. He was in her room.

Q Okay.

A And Heidi was in there and I. So she sent him out to bring some beer and some Nescafe, we have the little Nescafe, you know, the little tiny juice for one cup. So she send him out for that.

Q Some beer and Nescafe?

A Yes, some beer and Nescafe. And then, the both of them drunk up the beer and then --

Q (Interposing) Who drank the beer?

A My sister, Anneliese, and this man drank the beer. And then the little one, she was going like this again. (Indicating) So she used to give her beer.

Q Who gave her --

A (Interposing) My sister, Anneliese, gave her beer to drink. I haven't seen it only once, I have seen it many times, as my sister that's fine. She rather go get beer for her friends than giving the child the things what she needs. So she gives her beer. Instead of going out and buying milk, she rather buy beer for her friends, instead of taking the money to buy milk for the child. So the child drunk beer, coffee and anything that was in the house.

Q But did not get milk?

A No. I never saw her drinking milk when I was there.

Q Did you see any milk in the place?

A No, sir. And I see no food in the place neither, every time I got there.

Q Did Anneliese ever say what she did with the money that you sent her?

A Yes, she say, she used to buy stuff for the little one. And then the big money we sent her, she wrote a letter and told us she would like to have an apartment. So she had to have 300 marks.

So my husband and I, we got to the bank, in American money this was $75. You see, for the money, the

time -- the money I used to send her, she used to -- the dollar was much higher then. It was four dollar and twenty. Now, it's recently got down. This was when the child was little and the dollar was still on the high price. The dollar was changed after we got home again, you know.

So then she needed 300 marks, and then that would be $75. So I sent the money over there to her and we didn't hear from her for a long time, you know, but that she got the money.

So I wrote to her, and I say, "You never write me to tell me if you got the money. And if you don't get the money, we go to the bank, and tell them about it."

Finally she wrote me back and said, "I'm sorry I couldn't use the money for the place, I had to buy a dress for Viktoria. She was finished with school, she has communion -- it's Lutheran confirmation. She had to buy a dress and she had to buy some food for this day, you know.

And then when I got back to Germany, the dress what she told me she bought for Viky, it was Monica's. It was Monica's confirmation when she was.

Q Wait a minute, now. You found out that the dress that she said she bought for Viktoria --

A (Interposing) Yes, was Monica's old dress.

Q (Continuing) -- was Monica's old dress.

THE COURT: Who's Monica?

THE WITNESS: That's the oldest daughter. Monica is the oldest daughter.

BY MR. ARCHER:

Q Let's stop here a minute and digress to get the children straight.

A Monica is the oldest daughter.

Q Of Anneliese.

A Yes.

Q And Viktoria is the younger daughter.

A Is the second daughter.

THE COURT: Okay. How old is Monica, now?

THE WITNESS: Monica is -- she was eighteen -- she's about twenty-nine. She's married now.

BY MR. ARCHER:

Q And Viktoria, where's Viktoria?

A Viktoria is in the welfare home.

Q And was she in a welfare home at the time you were over there?

A Yes.

Q And had she been there for some time, or not?

A Yes, she been in the welfare home since 1967.

THE COURT: How old is she?

THE WITNESS: She is now fourteen -- fourteen, fifteen. She's born 1956.

THE COURT: She'd be almost sixteen or fifteen.

THE WITNESS: Yes.

BY MR. ARCHER:

Q When did Monica -- or did Monica leave her mother?

A Monica and Viktoria were taken away from her.

Q They were taken away from her?

A Yes, by the welfare.

Q By whom?

A By the welfare.

Q By the welfare?

A Yes.

Q About when was that, 1967?

A Sixty-seven in September.

Q All right. So that they were not living with her during the period that we're talking about.

A No.

Q All right. Now, going back to what you were talking about.

A Well, Monica, when she was confirmed, she had a dress -- we wore black dresses over there, it's different.

Q Okay. In other words, what you're saying, is --

A (Interposing) Viky wore her sister's dress.

Q Okay.

A And so my sister didn't buy the dress. She told me she bought a dress, and used the money for Viktoria to make the communion. And when I got over there, Monica say, "No, she didn't pay nothing. She didn't buy the dress. That was my dress. My father paid everything and invited my mother to dinner."

Q Well, did Anneliese ever tell you what happened to that 300 marks?

A She say, "No, no, I pay the dress."

And I say, "Monica say not."

She always tell me that she paid for the dress and she did not.

Q Okay. Now, did you ever find out what she did with all this money that you were sending over there to her?

A No, we never know what she did with it. She sure didn't use it on the child.

Q Did you observe whether or not the child was sufficiently clothed?

A No, no, she had one red leather coat and this was like some kind of imitation felt inside, and it was very

smelly, and dirty. And then she had about two dresses. The child was taken care of in a child's day care center, and the welfare paid for everything. She didn't have to pay nothing.

The child had to go down there from the morning till evening, six. So the mother could go to work all day. In Germany we have care centers for the children, and they take care of them all day long and you get your food in there. Then the mother picks them up.

She puts them in before she goes to work and after work -- and she told, the child was in the day care center, welfare, that she was working.

When I got there, too, she told me she's working. When I called up there to her working place, many times, in order to say when the papers would be finished, and the lady say, "This woman, she not here."

And I say, "Well, did she step out?"

And she says, "No, she didn't show up for work."

She had no excuse, she just didn't show up. And then, I asked my sister, Anneliese, I say, "Anneliese, the lady told me, I called at work, and the lady says, you're not working."

"I'm working, I'm working," she says.

THE COURT: What type of work was it?

THE WITNESS: This was in a chemical, where you make --

THE COURT: (Interposing) Chemical factory?

THE WITNESS: Yes, where you wear white clothes and it's all for drug stores and things like this, for doctors and things like that. We have the same thing, you have to pack things.

And so she says, "No, I've been to work."

I say, "Well, I called you and the lady says you were not there."

And she says, "Oh, I was just downstairs, I had a headache."

MR. ARCHER: She said what?

THE WITNESS: "Downstairs, I had a headache and the boss give me something for my head."

And then I said, "Anneliese, that's not the truth. The lady told me you haven't showed up for a couple of days to work."

She says, "She must be mistaken, I was there."

BY MR. ARCHER:

Q Okay. Did you ever find out where she actually was?

A No, no, she took the child to the center care --

Q (Interposing) Day care.

A Day care center, you know, she took the child down there. But then the neighbors used to tell me, she come home and sleeps a while, and then runs around all night. She sleeps it off and then she's chasing after Mr. Szemler. And then my sister got a letter from --

THE COURT: Elfriede or Anneliese?

THE WITNESS: My sister, Anneliese, got a letter from the place where she worked, and they told her, "Now, if you're not interested in any kind of work, would you please be so kind as to bring the white coat and the keys for the closet?"

You have a closet to put your stuff in when you go to work, when you go to work and go upstairs. And they said, "Bring the white coat back and pick up your money."

So I told my mother, and when I got to my sister, Anneliese, that's when she told me she had a fellow.

She said, "Listen, I no can go up there, it's so far and I have no money."

I say, "Well, Anneliese, I give you the money for the streetcar, and you can go up there."

She says, "No, I can't go right now."

We have to go by this place where she used to go

to work, on my way home to my sister, Elfriede.

And Anneliese know that and she said, "Can you pick it up?"

So my mother and I, we picked it up in this factory down there. And then the lady told me, I should wait for a second. And then she have to call the floorwalker, that the lady had over one floor, that she would like to talk to me. So when the lady come down --

MR. ARCHER: (Interposing) I don't think we'd better go into what that lady said.

THE WITNESS: Oh, so the lady she give me the money and she make it out for two days, plain out, when you take everything out, she make it for two days, sixty marks, plain out.

BY MR. ARCHER:

Q Sixty marks?

A Sixty marks, and that's pretty good for over there.

Q And then did you take that and give it to Anneliese?

A Yes, I give it back to Anneliese.

And then one time I got to my sister's place, and there was -- I was going to the police station for this passport thing.

Q Passport?

A Yes. And when I come downstairs, there was a man from the electric company, and he was ready to turn the lights off. She didn't pay her bill.

And she says, "Well, you got to go to the welfare and get your money from there. He paid for that."

And so then, I, a couple of days before, my sister gave me a light bill and asked me if I could pay the light bill. It was forty-two marks.

And I say, "yes. I pay it by the bank," and then I have the receipt. And then I show it to the man. I say, "I paid for the lights."

He said, "No, it's only for one month. She's three months behind."

Q All right. Now, did you have any knowledge about -- strike that.

Did Anneliese -- does she have another child now?

A Yes, she -- I heard she has another child. I think it will be about eight, nine months old.

Q Do you have any knowledge about how she cares for that child?

A No, I don't know what she do with the child.

Q Okay. Now, after you left Germany what -- you began the adoption proceeding in May, is that correct?

A Yes.

Q May of 1970.

A Yes.

Q Had you had any information by that time, that Anneliese objected to the adoption?

A No, we never heard from her. We heard from her after May or the first week in June.

THE COURT: What year?

THE WITNESS: Sixth, 1970. After we come back from Germany, the same year.

THE COURT: You heard from her?

THE WITNESS: We didn't hear from her, but we heard that she had the revocation.

MR. ARCHER: The revocation.

THE WITNESS: Yes.

THE COURT: That's the first week in June or late May of 1970.

THE WITNESS: Yes, that's the first time we ever heard from her.

BY MR. ARCHER:

Q All right. Now, you heard the testimony about the incident in October of 1970, on or about the 16th of October.

A Yes.

Q Would you tell the Court what happened then?

A Yes. My husband had to leave for Italy for two weeks for a meeting with another fellow. So we put the suitcase and everything and my father -- I'm sorry, my father-in-law always drives him to the airport and picks him up. I cannot drive.

So my father-in-law come over and when he took the suitcases, I saw a Mustang come by from New Jersey, and I said to my husband, "Oh, my, somebody else is moving in from New Jersey. He's maybe Navy, too."

And this was all. There was two people sitting in there. And then I thought nothing about it. Then after my husband left, Heidi and I was going to the mailbox to mail a letter. But before we got to the mailbox -- the mailbox back home, we walked by and this kid from the court, he always play with Heidi, and so we was going down there -- oh, and meantime, when I walked by, Heidi was playing with the children, I saw this car going up and down the street, you know, so many cars going by I didn't thought nothing about it then.

Then Heidi, the kids had to go inside, and Heidi and I, we walked home. And we walked across the street, and here was this man.

And he said, "Oh, Petra."

Q He said what?

A Petra.

Q P-e-t-r-a?

A Yes. The little girl's name.

Oh, and I say to him, "Who are you?"

And he say, "I'm the father."

And he say, "Who are you?"

And I say, "I'm Mrs. Clements."

And then he tried to reach for the child.

Q He did what?

A He tried to reach for the child.

Q Tried to reach for the child?

A Yes. But the child got behind me and I turned around and picked her up, and when I picked her up, he wanted me to go with me to my sister.

Q Which sister?

A Sister Anneliese. He say, "She want to see and talk to me."

And I say, no. And then he tried to pull me to the car. And so I kept on -- I had the child on my arm, and Heidi was crying --

Q (Interposing) She was what?

A She was crying.

Q Crying?

A Yes. And I said, "Leave me alone, or I'll call for help."

And he says, "You can't call, there's nobody around to hear you."

The street was empty.

Q The street was empty?

A Yes. The street was empty and the kids was down in the court, I was up from the court. And then I walked all the way home, he followed me and kept pulling and kept pulling, and I told him, "If you don't leave me alone, I go in house and call the police."

And he say, "I want you to come with me."

I say, "I will not come with you, leave me alone."

And he say, "I want you to come to your sister."

I said, "I am going no place with you. I don't know who you really are."

So he kept on pulling, and kept on pulling, and the more he pulled, the more the child cries.

So finally, I got into Mrs. French. I was afraid to go into my front door. He may forced himself into it. So I got to Mrs. French and ring the doorbell, and then I

got inside, and I told Mrs. French that he is the father, he says he's the father of the child.

Q Did he actually lay his hands on you?

A Yes, he pulled me, and I have a bluish sport coat on, and it was the first cool, windy day when my husband flew away.

Q Well, did he lay his hands on the child?

A Well, he tried to pick her up, but before he pick her up, she crawled behind me. He reached for her, but he didn't touch her, and she crawled behind me.

Q Did you see any more of him?

A Yes, when I get up inside and he stood a little while outside, and then he left, and walked all the way back to his car, up down there where the survey is, walked all the way back up there, and then about five or ten minutes later, all of a sudden, he come by again and he parked up there.

And she come out and --

Q (Interposing) Who came out?

A My sister Anneliese come out.

Q She was in the car?

A The second time. The first time, when I saw him the first time, he was all by himself.

I never saw this man before then. I wouldn't have walked across the street if I had noticed him.

And then, after he left from Mrs. French house, he took off with the car, and about five, ten minutes later, the both of them -- he come again, and parked right by the house, I was in Mrs. French --

THE COURT: By Anna's house?

THE WITNESS: No, by Mrs. French's house.

THE COURT: Okay.

THE WITNESS: I didn't go to my house. I stayed at Mrs. French's house.

THE COURT: Okay.

THE WITNESS: And then he got up to the survey and then he parked up there --

MR. ARCHER: Up to the Safeway?

THE WITNESS: Survey, survey. Where you survey land.

MR. ARCHER: Oh, are you talking about the business, Springfield Survey?

THE WITNESS: Yes. He got up there and then she got out of the car. That's when I saw her the first time. I didn't know --

THE COURT: She was who?

THE WITNESS: My sister, Anneliese, she got out.

And then he stayed a while down there, and then he come back and he walked right in front of Mrs. French's house.

And then, in the meantime, Mrs. French helped me. She called the lawyer, Mr. Trotter, and then Mrs. French called the airport to get my husband back.

And then he stood out there; he wouldn't leave. And finally my husband come back from the airport, and then my husband talked to him and he went on.

BY MR. ARCHER:

Q Then they left?

A Yes.

Q Now, did you see them again after that?

A Yes, I saw them again the next day. I didn't see them right away, till we looked out the window and he was up there at a house that is different and he slowed down there. Our house is this way and he was on this side. (Indicating)

And then the doorbell rings and Mrs. Nassor comes, and she told me, she says, "I got their number from their car."

Q Okay.

A And that's when I found in my door, this notice,

"millstones will roll over me."

THE COURT: The what will roll over you?

THE WITNESS: Millstones. It's a saying in Germany, bad anything run over me.

BY MR. ARCHER:

Q And you didn't see him again after that, though?

A No. Then my husband and I left Washington for the weekend just to go up to Front Royal. We bought some land up there.

Q Okay. Now, did you observe in Heidi any effects of this incident?

A Yes. At first she was very nervous.

Q At first she was --

A (Interposing) It took a while to calm her down. Then Mrs. French took her down to the family room. They've got a big horse down there, you know -- what you call it?

Q Well, that doesn't matter.

A Yes. And then we finally calmed her down. And then when she saw Ray, she run to him and cried again. And then we got over to our house, and we called the police, and then we put the child to bed. Until the next two or four weeks the child would not go in her room alone. She would not take a nap in her crib any more. We have to take

her to our room and she slept with us. Many times, nighttime, she used to wake up screaming, and we had a hard time calming her down.

But finally she wasn't afraid in our room in the baby crib, so we took her into our bedroom to calm her down. But she would never go into her room alone again. Then after three or four weeks, then she calmed back down again.

Q All right. Now, Mrs. Clements, one more thing. Does Heidi have any particular reaction when you and Mr. Clements go out or leave her?

THE COURT: At the present time?

MR. ARCHER: Yes.

THE WITNESS: Yes. When my husband and I, sometimes we have to go to parties. Most of the time the parties we have, we do it early enough so all the children can cookout, all the children play and get to stay, and things like that.

But there are many parties we have to go alone, you know, in the evenings, like cocktail parties, and we can't take her. We never leave her with a babysitter. We always take her over to my father-in-law.

She don't mind if Ray is with her or I am, but to be left alone, she gets very upset about it. When my

husband and I gone for a ski trip one weekend, when we come back she cries and she was very upset about it. She's got to be with us all the time. She can never be alone. She needs to know where mother is. She's afraid of something. I don't know what.

MR. ARCHER: That's all I have.

THE COURT: Cross examination.

CROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Mrs. Clements, when you left Germany on April 12th in 1970, was your relationship with Anneliese good at that time?

A Yes.

Q Did she come to see you off when you left?

A No, she didn't come down.

Q Did you say good-bye to her in the normal fashion?

A Yes, I said good-bye to her Friday afternoon.

Q And when was the next time you heard from her?

A That was sometime end of May or the beginning of June. She sent us the revocation in a letter, a blue envelope.

Q And did she write a letter to you along with that?

A No, just this piece of paper. She didn't wrote

nothing. At least she could have been kind and said something. She never wrote to me nothing.

Q There was no communication, other than sending this form to you.

A No. I did wrote her a letter that we gotten here okay, and she would never answer. Before I left, she wanted from me 300 marks to get out of this place.

And I told Anneliese, "I don't have this much money that I can spend." You see, I don't go to work.

Q Now, when you received the form, revocation of consent from her, did you write to her at that time?

A No, we just showed it to a lawyer.

Q I'm sorry.

A We showed it to a lawyer.

Q And you had no communication with her at that time?

A No, she never wrote to me, and when she did send me a letter, it was only a piece of paper. No letter, why -- nothing. So I didn't wrote her again. I wrote her once and she never wrote me back. I think it was the end of May -- I think really, the letter was the last couple of days in May, or the first week in June.

Q Now, from the time you left Germany, on April 12th, until you saw her in Springfield on October 16th,

did you have any communication with her at all?

A No. She wrote me a letter.

Q She wrote you a letter?

A She wrote me a letter and Mr. Szemler wrote me, too.

Q How many letters did she write you?

A This was sometime after the lawyer from Germany wrote and said we should send the child back, or something like that. And after that, she wrote me a letter. She only wrote one or two. This was sometime in July.

Q And what did she say to you?

A In the letter she told me that she would like to have ~~tha~~that she and Mr. Szemler want to get married, and she now would like to have the child back, but she wanted -- she got to the place and found me a new child, and she would bring the new child with her to me.

Q Is that all she said?

A That's all.

Q And did you reply to that?

A No, I never wrote her.

Q And did she write you again?

A She wrote and we give everything to the lawyer and told him to write.

Q Did she write to you again?

A Yes, she wrote to me a couple of times.

Q And what did she say?

A She say to me, "If the little girl will turn out like Viktoria, then it would be my fault, if she wouldn't talk."

So how can it be my fault, if your husband don't can talk, don't can't hear, she got a child that don't can talk, don't can't hear, so when this child don't can talk, it couldn't be my fault.

Q And you didn't reply to that either.

A No, I never replied to her. Our lawyer said we should give all to the lawyer.

Q Did you talk with your sister, Anneliese, at all when she was here in October, '70?

A No, sir. She could have come to my door and ring my doorbell, and say what she really want, and not sneaking around and send a man around to me I never saw before.

Q Have you spoken with her at all, since you left Germany in April of 1970?

A I talked to her. She called me one time on the telephone.

Q When was that?

A This was two or three days before she showed up in

Washington.

Q In October of 1970?

A Yes. When she told me, she say to me, "How are you?" I say, "Fine."

At first I thought it was my sister, Elfriede.

And I say, "How come you have my phone number?"

She told me, my sister Elfriede, give her, my sister Anneliese, the telephone number.

And she said, "How are you?"

And I said, "Fine."

And so she said to me, "Well, can I come and see you sometime, like Christmastime?"

And I say, "Let me talk to Ray first." And then when I say, "I tell you something -- can you tell me something, where are you calling?"

She told me she called from Frankfurt. Well, now I know she didn't call from Frankfurt, she called from New York.

Q How do you know that?

A Because the words are much clearer than when people talk from Germany. And then two days later she was here in Washington, so she must have called me from up there.

I asked her, and I say, "I don't know. It seems

like you're calling right from here."

Q And she made no mention of the fact that she would see you in several days?

A No, nothing at all. She just showed up. And I told her that I would ask Ray what he thinks, after what she did.

Q Did she get to see the child or talk to the child?

A No, sir.

Q Have you had any communication with her since that time?

A No.

MR. CRICKENBERGER: I have no further questions.

REDIRECT EXAMINATION

BY MR. ARCHER:

Q Mrs. Clements, did Anneliese, while she was here, try to see and talk to the child or not?

A Well, she was always after -- the first time he showed up himself, and then after that they were always together.

Q But did Anneliese, herself, try to see the child? Did she come to you and ask to see the child?

A No, she never did.

Q Or talk to the child?

A No, she only send the man to me. The man, Mr. Szemler, he saw the child.

Q Did she ever call you on the phone, other than that one time?

A No, no.

Q While she was here?

A No.

Q Did you know where they were staying while they were here?

A No. She told my husband she would be in a motel in Dumfries.

Q Dumfries?

A Dumfries. And my husband, he called the German Embassy, too, that night when she showed up down there, and told them about these people. She know where I live. What she could do, she could have come to my doorbell, and ring my doorbell and talk to me. But, no, she send this man what I don't know at all.

Q Now, during this period of time, from the time you and Mr. Clements took Heidi with you --

A (Interposing) Yes.

Q (Continuing) -- to the present time, have Anneliese and Mr. Szemler sent any support money for the

child, provided any gifts or presents or anything?

A No. Mr. Archer, we got over here the 12th of April, and Heidi's birthday was the 17th of May, and we had no birthday card for this child, nothing.

Every time she talks to me, she never asks how the child is, she just thinks of herself. Or anything she writes in letters, is she finds it very hard to get the man what she wants. Now, she wants to be happy.

After my husband and I come back with Heidi, I wrote my sister, the child is fine. I told her what I do all day, what she do all day, and she never wrote back to me, and I never wrote again.

Q Would you tell the Court whether or not you agree that Mr. Szemler is the father of the child?

A I myself -- first she's got two fathers, now. I am with Heidi, and Heidi is much older. You see, Mr. Archer, I come from the east to the west.

Q What's the east to the west?

A From the East Sector, and when I come over to the West Sector, I come over as a refugee, you see. Then when I got to the West Sector, I saw Viktoria. We didn't know there was something wrong with her. And so I told my sister, I say, "What is this with her? How come she no

can talk?"

She'd talk little things, and then she'd roll many things. And so I said, "You should take her to a doctor."

And she say, "Yes, tomorrow, tomorrow."

Q Viktoria is the daughter of Alfred Sebisch.

A Yes, the second daughter. So I told my sister to take her to a doctor and see what's wrong with her. And then Viktoria was about three, three and a half then. And then it got worser and worser, So I asked Alfred.

I say, "Alfred, what is this with Viktoria?"

He say, "I don't know." He said, "I'm worried. I don't can take her to a doctor. I told Anneliese to take her and she says, yes, she wants to do it."

Q Well,--

A (Interposing) She never takes her. So I, myself, took her to the doctor. And the doctor say he have to make some tests on her.

And then he say, "She definitely have a very bad speech problem."

And then he said, "The hearing we don't know. We have to make more tests."

Q The hearing?

A The hearing. He have to make more tests with the

speech and things like that. And then the doctor, the second time I saw him, said, "She need hours of speech."

So he give me some -- I used to be in Germany --

Q (Interposing) All right. What I'm driving at is: I asked you to tell the Court whether or not you agreed that Heidi is not the child of Mr. Szemler?

A Yes. I don't think she is Mr. Szemler's child. I think she's Alfred Sebisch's child. First of all, she don't look like our family. She look like the Sebisch family, completely. Monica --

THE COURT: (Interposing) What kind of family?

THE WITNESS: Sebisch. That is the father of Monica and Viktoria. And then she looks completely like Monica, all over in her looks, completely Monica. And in her actions, she is getting more and more like Viktoria.

BY MR. ARCHER:

Q Now, this speech defect that --

MR. CRICKENBERGER: Your Honor, I don't want to be --

THE COURT: I sustain your objection. You mean, as to who the father is?

MR. CRICKENBERGER: Yes, Your Honor.

THE COURT: All right. I sustain that.

MR. ARCHER: Well, Your Honor, I think I can

present what facts she has observed.

THE COURT: She certainly can say there's resemblances and this and that, but not as to a conclusion.

THE WITNESS: You see, when Viky --

THE COURT: (Interposing) Wait for the question.

BY MR. ARCHER:

Q You say that Viky had a speech defect.

A Yes.

Q And Heidi, apparently, has a speech problem.

A Yes.

Q You have heard Viky talk.

A Yes.

Q Is it --

A (Interposing) And Heidi is the same in her actions, in her behavior, and when she tries to talk. And the same way, like Viky used to do at the same age that Heidi is now.

Q Did you observe any speech defects in anybody else in the Sebisch family?

A No, only Alfred Sebisch, Viktoria, and the little girl.

Q And Alfred is the former -- he's now deceased.

A Yes, he's now dead.

Q He's the former husband of Anneliese.

A Yes.

Q He had a speech defect?

A Yes.

MR. ARCHER: That's all I have.

THE COURT: Any cross on those matters?

RECROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Mrs. Clements, was there any controversy, to your knowledge, about the parentage of the child, who was the father of the child?

A No. I asked Mrs. Leichenstein who the father is. And she said, "We don't know. The court declared the child illegitimate."

Q What? Illegitimate?

A Yes. And she said, Anneliese Sebisch got the Court to declare the child that way.

Q Did Alfred Sebisch ever acknowledge that it was his child?

A Mr. Sebisch never heard about it.

Q Never heard about what?

A About the child getting in court. I don't know what my sister did.

Q So you have no knowledge about any controversy over who was the father of the child?

A Well, the courts over there didn't decide who the father was. The courts over there only decided the child was out of wedlock.

Q That means it would not be the child of Alfred Sebisch, is that right?

A Well, we don't know that. You see, my father, he have a child out of wedlock, and he says he's not the father. And the mother say, he is. And the mother took him to court. And then, he decided he was the father.

And he had to pay the support for the child from the day it was born. The child is almost fourteen years old, now, but he had to pay all this money.

Then, how come Mr. Szemler didn't be declared and have to pay support for the child, if he is the father? That's what I can't understand.

Q Was Anneliese married to Alfred Sebisch at the time the child Petra was born?

A Yes. The child of the marriage -- she was divorced in 1969 in Frankfurt. And then the welfare asked Mr. Szemler to come and to say if he is the father. And he never got to the welfare and told them.

And Mrs. Leichenstein say, "Mr. Szemler has nothing to say." I asked her.

She say, "He never come and say he's the father, he never pays support for the child neither. We have asked him to come repeatedly, and say he is the father. And he has not."

Q Did Alfred Sebisch pay support for the child?

A My sister got money and food from Alfred Sebisch. My sister used to go to Alfred Sebisch and got money from him. My sister got to Monica and begged money from her, and the poor child was working as a student. She didn't have much. And she got it from all over the place. She got from my older sister, money. I think she could have gone to work.

And she had the child taken care of all day long. She could have made a way to take care of the child. If she loved the child, she wouldn't have left the child in a place like the child lived. She could have made a living for the child.

I can see if a mother has nobody to take care of the child, like a care day center to take care of the child, it keeps the child. She could have made a living.

Or Mr. Szemler, if he loved the child so much,

he never would have allowed her to have this child living in this place. That was the most filthy place I ever have seen. If you think the slums of America are bad, that is not the slums, that is the gutter. I have seen it, sir; you haven't seen it.

Q I want you to have the opportunity to explain fully, just how you feel, Mrs. Clements. But I would like an answer to my question, if you don't mind.

Were Viktoria and Monica the children of Alfred Sebisch?

A Yes.

Q Now, when they were divorced, he was obligated to support them, was he not?

A He did support them.

Q Now, my question to you was not whether he gave any money to Anneliese, but did he support Petra, the child, by giving money to Anneliese?

A You see, no -- but, you asked me if Alfred support the child. I told you what I know that Alfred has giving Anneliese money. Anneliese, herself, told me that he give her money.

Q But Anneliese had the children, Monica and Viktoria, did she not?

A She did not have the children. The children was in a welfare home.

Q And Alfred Sebisch gave money to her for support even when the children were in the welfare home.

A No, she used to come and get money. My sister used to live with Alfred and the men in this house, and the children saw everything.

And the teachers used to complain because the children didn't have enough sleep nighttime.

Q I'm getting a little confused on facts right now. At the time the child Petra was born, was Anneliese married to Alfred Sebisch?

A Yes, she was married --

Q (Interposing) She was married.

A She was married to Alfred Sebisch, and Anneliese Sebisch was living --

THE COURT: (Interposing) Just answer the question.

THE WITNESS: She was married to him, but she was not living with him.

BY MR. CRICKENBERGER:

Q She was married to him, is that right?

A Yes.

Q All right. If she was married to him at the

time she had the child, Petra, would not the child Petra be considered to be born in wedlock?

A Yes, she was considered in wedlock, but my sister declared she was not in wedlock.

Q Didn't the German court declare that the child was born out of wedlock?

A The German court, I think they did.

Q So that would indicate that in Germany, they do not feel that Alfred Sebisch is the father of Petra, is that right?

A That's right. But I see the child, I see the child. The child looks like --

Q (Interposing) I want you to have every opportunity to explain that, If Mr. Archer wants to ask you any further questions about that, that's fine.

THE COURT: Are you finished with your recross?

MR. CRICKENBERGER: Yes, Your Honor.

THE COURT: Anything further?

REDIRECT EXAMINATION

BY MR. ARCHER:

Q You mentioned in response to one of Mr. Crickenberger's questions, that Anneliese lived with this man, some man, other than Alfred Sebisch.

A Yes.

Q And that the child, or children, saw everything, I think is what you said.

A Yes.

Q What do you mean by that?

A Well, Monica, my sister took Monica, who was thirteen years old at the time, took Monica at nighttime to pick up men.

MR. CRICKENBERGER: I'm going to have to object. Unless she has seen this, it's a little far afield.

THE COURT: Sustained.

BY MR. ARCHER:

Q Can you tell us, whether or not, Anneliese conducted herself in front of Heidi in the same way as you were referring to?

A Yes. She only had one room and the child used to sleep in there. And the men come nighttime, two o'clock, sometimes later, and then they used to sleep together and --

MR. CRICKENBERGER: I have to object again, Your Honor. Obviously, she was not there.

THE COURT: Sustained.

BY MR. ARCHER:

Q After you got Heidi to the United States, for a

time right after you had her over here, would you tell the court, whether or not, you observed any unusual behavior?

A Yes. I observed in Germany, before we brought this child down here. I took the child to my sister, Elfriede's house. And when we got down there, a big doll was sitting, a big doll --

Q (Interposing) Doll? D-o-l-l?

A Yes, a big toy doll was sitting on the couch. So little Heidi took the doll from the couch and undressed the doll, laid it on the floor, sit on it, spank the doll, kiss the doll, and made sexual intercourse with the doll. Not only one time, she did it a couple hundred times.

And my nephews and nieces said, "What is she doing?" And she did it another time at my sister-in-law's house, Ilse.

And then when we got back to America, my mother-in-law brought her a big doll and she did the same thing with the doll again.

So my husband and I, we didn't say much to her, to make a big scene. We took the doll away, and didn't let her have it for a while. Now, she's got the doll again, and she don't do it any more. And I saw it with my own eyes.

MR. ARCHER: That's all I have.

THE COURT: Anything further?

MR. CRICKENBERGER: No, Your Honor.

THE COURT: You may step down.

(Witness excused)

- - -

THE COURT: Call your next witness.

MR. ARCHER: Your Honor, I believe we'll have the three documents we were talking about.

THE COURT: Do you want to take them out of the file and go ahead and show them to Mr. Crickenberger.

MR. CRICKENBERGER: (Examines documents)

THE COURT: So the record is straight, you're now offering petitioner's exhibit two, which is the certificate of guardianship from the juvenile office, and the translation -- that'll be 2A and 2B. The certificate is 2A and the translation is 2B.

(Thereupon, the documents referred to above were marked Petitioner's Exhibit No. 2A and 2B, in Evidence.)

THE COURT: Three A will be the juvenile office consent certificate, and the translation will be three B.

(Thereupon, the documents referred to above

were marked Petitioner's Exhibit No. 3A and 3B, in Evidence.)

MR. ARCHER: That's the affidavit I have.

THE COURT: Four A will be the affidavit of Seeger, S-e-e-g-e-r, dated, November 13, 1970, and four B will be the translation.

(Thereupon, the documents referred to above were marked Petitioner's Exhibit No. 4A and 4B, in Evidence.)

THE COURT: Is there any objection to exhibits 2A through 4B?

MR. CRICKENBERGER: No objection.

THE COURT: All right. Admitted without objection.

MR. ARCHER: Your Honor, at this time I would like to offer in evidence, this affidavit of Frieda Schnabel, the mother of Mrs. Clements and Anneliese.

THE COURT: Do you have a translation with it?

MR. ARCHER: Yes, sir.

THE COURT: All right. I'll mark the affidavit 5A and 5B as to the translation.

MR. CRICKENBERGER: We'll have to object to this, Your Honor, on the grounds of hearsay.

THE COURT: Is there any argument on that?

MR. ARCHER: Yes, I'd like to say to the Court that this affidavit contains the statement by the mother of both of these ladies. She is in East Germany. We cannot possibly get her deposition. This affidavit was given before a notary public in Germany, and it contains statements by her that are material to this case, and are relevant.

I'm aware that she's not here for cross examination. I'm aware that they do favor the adoption.

Sometimes, as the Court knows, the technical rules of evidence have been built up through the common law, and which we have now today, have been relegated and developed for the purpose of rendering justice, undoubtedly, and of finding truth, undoubtedly, and of preventing wrong, undoubtedly.

Nevertheless, nothing is perfect. And there are many times, when the technical rules of evidence get in the way, actually get in the way of justice being done, of rights being protected, and of the truth being found.

Your Honor, this is a case where we have a child, and in the middle, the natural parent, and the prospective set of adoptive parents trying to do what is best for the welfare of the child.

It seems to me that we ought not to let technical rules of evidence get in the way of what might be best for the child. particularly, in view of the fact that we are not before a jury, and we don't have to worry about the jury being led astray or confused, or what have you.

I think that in the interest of the rights of the child, we are not vitally concerned about the rights of the adults in this case, and the doing justice to the adults in this case, as we are about the rights of, and doing justice to the child.

And I think that to rule this affidavit out on a technical rule of evidence, would be getting in the way, or allowing the technical rule of evidence to interfere with the doing of justice to this child, and with the fostering of her best welfare.

And for that reason, I would ask the Court to admit the affidavit.

THE COURT: The Court will sustain the objection.

MR. ARCHER: Note my exception, please.

Thereupon

CHRISTINE KEHNE

was called as a witness, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Dr. Kehne, will you state your name and profession?

A Yes. My name is Christine Waple Kehne and I'm --

Q (Interposing) How do you spell that?

A K-e-h-n-e. And I'm a certified child and adolescent psychiatrist.

Q And where do you practice, Dr. Kehne?

A I practice at 3000 Connecticut Avenue, Northwest, Washington, D. C.

Q And would you state for the Court, as briefly as you can, your qualifications?

A Yes. I graduated from Bryn Mawr College and then I graduated from John Hopkins Medical School, and then completed the required residency course, psychiatry, adult psychiatry. And then had a United States Public Health Service fellowship for child psychiatry and passed both the boards in general psychiatry, as well as the specialty of child and adolescent psychiatry.

I hold various appointments. I hold an appointment to the University --

MR. CRICKENBERGER: (Interposing) We will stipulate that the doctor is well qualified.

THE COURT: Okay.

BY MR. ARCHER:

Q What has been your experience in the field of child psychiatry, briefly?

A Well, I've been both a private practitioner, as well as a supervisor of younger residents in training for child psychiatric practice. I continued that position at the University of George Washington, Georgetown University, as well as Children's Hospital, and have appeared, in the course of active practice, both in Courts of law, around matters such as today, custody situations.

And in general, I would like to feel that I have been available for the kind of problems that come to the young people of our community, whether they be developmental problems or severe psychosis which require hospitalization and a course of treatment.

Q How long have you been practicing child psychiatry?

A Since 1958.

Q Now, when did you first become involved with

Mr. and Mrs. Clements, and the child known as Heidi?

Q I saw Heidi, herself, on the 21st of March, but I had previously been introduced to the family through a contact with them on the 20th, the day before.

Q That's March of this year?

A Yes, it is.

Q And have you interviewed both the parents and the child?

A Yes, I have.

Q And have you made an investigation into the psychological and emotional conditions in the development of Heidi?

A I feel I have, to the limit of the information available. Naturally, the early years are not possible to be understood, except in a respectful review of the records that are available and the comments we have.

I feel I have made a sufficient contact with her on these occasions which I have seen her, spending a two to two-and-a-half-month interval here to -- based on seeing a lot of youngsters this age, and am able to say something about her emotional maturity, and able to give you that information, if you want it at this time.

Q What is your impression derived from this

investigation?

A That at four, which is the age I have been seeing her, she has been able to acquire a basic trust in people, which is clearly seen in the way in which she can respond, reach out to you, reach out to a stranger. She has the normal kind of apprehension, separating from her mother, showing that they were both together for a period of time. I say her mother, her presumptive mother as she knows it. This is her mother, as far as her awareness is concerned.

And this is a very key point in my concern, because she related to Mrs. Clements as one would to a mother. She looked back to her for a kind of reassurance you would have, and she received it. On the other hand, Mrs. Clements was not hanging on to her. She was comfortable separated from the child, and the child in turn could do so, and she turned to me.

She seems a bright child. She learned from her contact with the toys and the like to do selective behavior. If she had too big a handful of pickup sticks, for instance, she kept working with them, and the next time she would pick up a smaller one.

I suggest that she was relating and approachable.

She had no, clearly no serious emotional difficulties which showed a form of isolation of herself.

She was neat and clean and obviously aware that there were certain things you do and don't do. An example of this would be, after she played with the toys, with no more than a gesture on my part, she knew it was time to put the toys back.

This not only says that her mother, Mrs. Clements, has felt this was a standard that should be reached, and I concur with it, but that the youngster is organized, and thinks of these things, and she's motivated to do what is asked of her. Most youngsters at that age, of four, aren't going to be motivated unless they -- aren't going to do it unless they have some reason to do it, or to please someone they want to please. So it's part of the picture.

I would say she was proceeding with her developmental steps within. She was, on the first interview, quite demanding. She needed one-to-one attention, and acted as though she were the only child. She is, and perhaps had not been in too much contact with other children.

The one serious concern I had pertained to her very unintelligible and poorly developed speech. The sounds were happy ones, and she had become quite adroit at pointing

to things and getting someone to do it. Mrs. Clements is aware of this pattern, and now that the child is secure, seemingly, with them, they are much firmer in holding out until the child finds a word or reaches to them in a more definitive way.

Speech, of course, could be unintelligible for a variety of reasons, and we're in the process of delineating some of these. She had two speech diagnostics and it is clear there is an articulation problem. Some of this, no doubt, is the language, and the fact that Mrs. Clements speaks very fluent English--would that I could speak German to that extent--there is an accent that is in a child who has had no other contacts to speak of, which might be one contributing factor.

But I think, mainly, it says something about her early years, prior to coming to the home of the Clements, based on a large amount of experience with developmental deviations. Degrees of material deprivation, and lack of contact to talk with the child, could slow down their ability to develop speech. We see this prominently in our inner city with children who are of much concern now among the educators.

So that I feel very optimistic with the

definitive of speech therapy, and the present, as she has now been, for a good couple of months, in a nursery setting, for specific contact with young people. And her instructors say that this will minimize and drop off, and this will not be a marring matter for her.

The second visit, she was significantly less demanding. She'd already been in school. She was more responsive to my being busy doing one thing, rather deliberately, and she would continue whatever was her activity. Let's say she was playing with a doll, she'd continue with that and not have to show me everything about how she was.

THE COURT: What was the date of the second visit, Doctor?

THE WITNESS: May 5th. No, I'm sorry, May 4th.

So that -- well, the conclusion I reached was that this was a youngster who was clearly in the environment which allowing for maximum, at least normal "certainly remarkable development"-- well, I'm using it in the medical sense. Let me restate it, so it has the positive connotation that I intend it to have.

She's in a very firm structured, and in my opinion, essentially solid setting. There is no question but what

she can make, and is making, significant maturational steps. There's no indication at all that this is not a totally healthy and adequate environment in which she may develop.

I like particularly the fact that her mother, Commander and Mrs. Clements, the prospective mother and father, are firm people, who can when they say no, they mean it. They can say it firmly and kindly. I saw demonstrations of this, both as I watched them give it to Heidi, as I know her -- I have known her by that name -- and also in response to what I could say. I could say a no, and she could respond to me, as you could see she was accustomed to.

She is very strong willed, and we have a lot of awareness these days of the role of genetics and temperament, the fact that there is not infrequently connected with one or both parents in the development of said temperament, and that it is a component to be reckoned with of itself.

And thus, to be in a setting where there is a confidence that what one apparently is about to do is backed up, is a blessing. For this child in the hands of uncertain or ambivalent parents, people, surrogate, or whoever is doing the mothering and fathering, could

very well develop character traits and be the kind of person that would be very self-defeating.

Her anxiety, as any child's anxiety, increases when they are denied limits which they recognize they need in growing. As you know, we all need a mixture of love and firmness. And one without the other doesn't seem to work out. So that the welfare of this child, from the material I have available to me, is certainly assured.

I read some of the material, sir, that was part of the investigation, I understand, to the court, from the people who knew his family, or who knows the mother's family very well. Johannes Seeger talks about how he's known them from his point of view, it would be detrimental to return this child, to bring her back.

MR. CRICKENBERGER: Your Honor, I have to object to the testimony here, based on hearsay. We have allowed Mr. Seeger's sworn statment in the record, but I think for a conclusion to be based on that by someone else, is carrying it a bit far.

THE WITNESS: Maybe I didn't make myself clear. I'm saying that my finding is such that it is in agreement with his. It's not based on his, sir.

THE COURT: All right.

BY MR. ARCHER:

Q Dr. Kehne, is it your opinion then that Heidi is developing normally with Mr. and Mrs. Clements?

A Yes. I have every reason to believe she is, and no indication that she's not.

Q Now, I take it you have received some information concerning Heidi's background and her natural mother from Mrs. Clements, during your interviews?

A Yes.

Q And you spoke of ambivalence, or an ambivalent person. Could you tell the Court whether or not you found any indication of ambivalence from the information you have gotten about the natural mother, of her being ambivalent?

MR. CRICKENBERGER: Your Honor, I'll have to object. The information conveyed to Dr. Kehne would be strictly hearsay.

THE COURT: Sustained.

MR. ARCHER: Your Honor, this would be a -- I'm asking for her conclusion based on this information, not for the information itself.

THE COURT: She has to base it on the information itself, obviously.

BY MR. ARCHER:

Q Dr. Kehne, from your investigation, would you

tell the Court whether or not you found Heidi to be emotionally the child of the Clements, of Mr. and Mrs. Clements?

A Yes. Her responses were those that would be expected of a youngster who was turning to its loved ones.

Q Now, can you tell the Court whether or not you found any deep and essential mother-father ties in the child, in Heidi, in between Heidi and the mother and father?

A Yes. When the three of them were together, there was a sharing, a feeling of closeness, that is a part of one's clinical conceptions, to feel this kind of thing without necessarily having words for it. One comes to have a sense of whether there's a reaching toward and a trust in, and a mutual respect for one another.

Q Now --

A (Interposing) For instance, she brought the dolly over to her dad with a big smile and reaches out, and then separates and brings something over to her mother. And there wasn't any favoritism, among other things. There was a feeling of a threesome.

Q All right. Now, in your opinion, to a reasonable medical certainty, would you tell the Court what the effects would be on Heidi of removing her from the Clements?

A Yes. I certainly have strong feelings about the detrimental effects of such a move. We have much literature which talks about the role of separation at key times in the child's development.

At four, even in the absence--and I want to refer back to this because it's essential to keep in mind that Heidi has had one significant natural mother -- to be sure mother-child separation loss, she would experience it. So in the absence, even of that, let's assume that she was with her number one and only set of parents. At four there is a rather -- well, some might think it is the most important developmental crisis, but I wouldn't go so far as to say that, it doesn't matter. The most important crisis period upon her is namely the one of making ones identification with one's self.

It's the first important time of saying, "I am me, and mother and father are here. And I'm going to be a girl, and I'm going to be loved by my mother, and I'm going to have feeling for my father, and these are people I can count on. I can make my separation and be myself, counting on the fact, based on my four years," that's the usual child experience, "based on the certainty of their not abandoning me. I can afford to do some growing. I

can move a little bit further away from them, because I know they're really going to be here. I can start talking 'I', be myself to a degree."

And, of course, adolescence, there is even more definition of self, and so it goes.

But at this point, she's needing to know the security of people being at home base, so she can go out to first base and still not be abandoned.

She's in remarkable shape, I think, at this point, considering the significant age again of two. Because at two is when she moved away from her original home.

That's a time when a child is beginning to talk, and they're making their first physiological steps and her experience was that she experienced a loss of whatever kind of mothering she had had.

This is only to be pointed out and is not up for discussion or surmise. In any event, she must have been in a home for the past two years, which, of course, is half her life, and is more cognizant, and one is much more aware of what is happening. And she must have increasingly felt very secure to be in the shape she's in psychologically.

However, that sentimentalization is still there. And to be separated at this time again, is really up for a total unknown. Our experience is that many of these youngsters who have been sensitized once, really give up, and give up in a variety of ways.

They can give up by saying, "To heck with everybody. I'll live my life breaking the law or I'll satisfy my pleasures because nothing is worth counting on in terms of people, and I will just live my life."

Or she will still stay in the world, but troubled, or troubling others. Or to take the role of internalizing and withdrawing and shutting out everybody and everything. And indeed it would be perfectly possible to become a schizophrenic. There's no question but what it's an experiment as to what would be available to her.

At the present time, however, there is every indication that she will proceed with the usual kind of ups and downs that are expected in a family.

Q You mean, in your opinion, that to remove her from the Clements would be an experiment at best?

A None of us can play God, and I wouldn't say somehow she wouldn't, you know, stay alive and function in some kind of way.

In my clinical records I have seen these youngsters that come to you because they have lost trust to varying degrees. They meet new life stresses at certain points along the way. We all do that. A young girl may receive this in adolescence trying to make a go of it by a separation from college. That may be the precipitating crisis. And looking at their past, you can see they have critical times when they have had a right to expect something to come to them, and it has not.

What can the child think if we are not to be here? The only thing she can think -- and the batting average is pretty high -- is, "What have I done to lose the love of and security of everyone?"

And that can, in terms of character and parental development distort the person quite considerably, so that a bird in the hand is worth two or three in the bush.

Q Now, is it your opinion from your investigation then that Heidi should be given -- should not be removed and should be given the permanency of a permanent mother and father with the Clements?

A I don't think there is any question but what I believe that, yes. A permanent home and a permanent sense of -- on both their parts -- of being able to let

firmness and security of what you have and if you don't have it, you're walking on ice or it's like walking on eggs.

But both parents and child need adoption first, rather than a custody situation which is a no-man's land, a no-man's land in terms of the parents presuming they can't commit themselves.

It's a subtle but very powerful distinction and if one has the opportunity to have one or the other, I certainly -- in my mind, there's no question that the interest and the health of the child's welfare is met quite apart by the adoption decision.

Q Now, in the course of your investigation, did you make any recommendations to the Clements regarding Heidi?

A Yes, sir. I recommended that we have the speech diagnostic, which they proceeded to have and attended to, and also to see that she was immediately in contact with young people her age, presumably a good structured nursery school setting.

She has been in the Montessori school which is a very good choice. I realize that she couldn't be better provided for with the kind of structure and definitions that would be highly important at this point, particularly

to make up for some of the loss in the definition area.

Q Doctor, is there anything that we haven't covered thus far that you would like to add?

A Well, I guess I would like to respond a little bit to the matter which I appreciate as the Court's procedure, and I respect it, having to do with hearsay evidence, but it's inevitable when one knows what the mother did, and she didn't want her child, then all this wouldn't be happening. I think this much needs to be appreciated, and can be without being called hearsay. How much else do you need to appreciate that there was a real confusion as to the desire and motivation and action on the part of the natural parent or parents?

MR. ARCHER: All right. That's all I have.

CROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Dr. Kehne, what was the date of your first contact with Heidi?

A March 21st.

Q Of this year?

A Yes, 1972.

Q And for what purpose was she brought to you at that time?

A To have me evaluate her, sir. To see what kind of emotional and psychological condition she was in. Just to size her up. The normal, the usual examination.

Q Speaking in general layman's terms, how did you find her in March of this year?

A I found her in a shape that I hadn't expected to find someone who had a fairly traumatic first four years.

Q You mean she was well adjusted?

A Well, at four, you have to appreciate that we don't go endlessly, but I think for her age she is within the normal limits.

Q In your contact with her in March, how long did you spend with her?

A I spent a good hour and fifteen minutes.

Q And when did you see her again?

A On May 4th of 1972.

Q How long did you spend at that time?

A About the same amount of time.

Q Have you seen her on any other occasions and have you talked separately with Commander and Mrs. Clements?

A Only very briefly, the day before I first saw her.

Q And would it be fair to say that your knowledge of the background of Heidi was obtained primarily from

Commander and Mrs. Clements, and information they furnished you?

A I don't dwell -- I appreciate that it was, you know, it was only to be put in a broader perspective. I felt my responsibility was to see how Heidi functioned on her own.

Q Now, would it be fair to characterize your estimate of the situation that the Clements would be excellent parents for Heidi?

A Yes.

Q And you find that the home environment and background is adequate or better?

A Correct.

Q Now, you mentioned a crisis of separation, and as I understand your testimony, that would be one of the major factors influencing your opinion in your decision here. Do you mean that if we are able we could find a number of homes that are adequate and excellent?

A You can't move a child around like a pawn.

Q But is that a fair layman's view of what you are saying?

A Not only separation, but loss.

Q Is there something critical about this period?

The child is approximately four years old now and at that period of her life is there something especially critical?

A Yes, sir.

Q How long is she in this critical period?

A It's a period depending upon the factors involved and it might begin at two and could vary taking a period from four through six or so, the preschool phenomenon, or possibly to make a change at all at certain times, the effects are likely to be more adverse than at other times, yes.

But in the first four or six years of life, particularly with one crisis, one situation experience behind you, you would be extremely vulnerable to any period.

Q Based on your experience now, how perceptive is a child of two to separation?

A Very perceptive. I can refer to volumes at the moment because of the interest it engenders. One of the best is Dr. Robinson's, "The Two-Year-Old Goes to the Hospital."

It is a time short of their being verbal and they have no time sense anyhow. You know, out of sight, out of mind is pretty much the rule, but perhaps less so

by two. Prior to that time, they have no real knowledge, no gut conviction that they will be back home again. Sometimes you have to take their shoes and put them in the hospital so they kind of have an association with home. Age two is a very perceptive time.

Q Based on your experience, when is the most likely adverse aspect of separation, separation at two or separation at three, or four?

A I really can't answer you because it depends on so many other factors and the nature of the separation. A loss at two, depending on how much was behind her, we're speculating, but if she'd been healthy and fully loved up until two, it would produce one kind of effect, probably more severe as she went from some high quality to low quality.

We've got a lot of variables. We have to realize that this four year old is going to have more feeling, more reaction, more character damage if she were to have a four-year-old loss of parents because she already had the one at two.

But other things being equal, I suppose the four-year-old -- I would think probably that a four-year-old would have more damage than there is for the average

two-year-old separation or loss, because after four years of that, and then there is a total loss with no explanation and this other situation, it would be quite damaging to the ego development.

Many times you have a bee sting and you get over that, but afterwards you are hypersensitive. You get much more reaction to any subsequent bee sting. One can think of the same concept adapted to a child in this situation. She is sensitized at this moment.

Q Let me reframe my question.

When you first saw Heidi on March 21st of this year, had you not been able to gather a history from her parents and surrounding documents, been able to tell anything about the child herself, about what she had undergone previously?

THE COURT: You mean without a history?

MR. CRICKENBERGER: Without the history.

THE WITNESS: No, I think one of the points I am making is that there was essentially a healthy four-year-old. Four is an age of fears; there are certain fears necessary at four, to go off a little on our own, there is a beginning of maturation and they don't do it evenly, but presumably just before four the youngster is getting used

to his own ends of movement, around inanimate objects like vacuum cleaners, automobiles or things that are clearly forces.

About four she begins to focus concern around: How dangerous are people? Can they be trusted? Can she reach out to them?

Q Are there no real objective findings that you could find about Heidi without indicating what may have transpired two or more years ago?

A I think that would be so, although I would say with any youngster that you see, you can keep an open mind about what kind of difficulties you are dealing with.

Some youngsters can be traumatized. My opinion in terms of Heidi is that I think she had considerable experience, considerable anxiety in her early years.

Again what I'm talking about is her earlier years. Heidi has already begun to be a little more hyperactive. She shows anxiety by greater movement.

She has an I-can't-count-on-them, I'm-going-to-count-only-on-myself approach so that at four there is developing a defense, an anxiety.

I don't know what kind of an answer that is to you. I would say that no, I found nothing objective to

indicate the nature of her first two years.

Q Would it be fair to say that given the same situation with a different subject history that you might characterize the situation a little differently, without saying what the subject history might be? In other words, I'm trying to find out if the basis of your analysis and conclusion are primarily from the history that you got.

A No, sir; it is not. I am basing my recommendations on -- speaking of my recommendations, there would be no change. I am basing, trying to characterize the estimate of the child on her fears and problems and adjustments.

Q Now, would these perhaps change with a different subject history?

A No, I mean I found what I found. I found a youngster who was relating to her parents, going to people in a trusting open way and I found her relating to me in a way that indicates that she had to have others, for example, be with people.

In other words to imitate is the chief way we all learn. She was -- she had people who she was imitating, whose standards I value and feel are in the interest of her growth.

Q Now, I realize you're not being paid to educate me,

but I have a problem of understanding.

Are you really saying that your findings are based on the adequacy of the present situation that Heidi is in, regardless of what the subject background may have been?

A Yes, I guess I am saying that. As I said before, somewhat in the vernacular, the colloquial expression, if you've got a good deal, a bird in the hand is worth two in the bush.

Q I understand that. Would it be fair to say that any child that you investigated the home situation and found out that the present parents were excellent and that the child was well adjusted, that the future was good where that child was, that you would recommend against a change?

A Yes.

Q So is it fair to say that your testimony really is that the Clements are excellent parents, that the child is well adjusted and that you recommend no change to be made?

A Yes, but I --

Q (Interposing) Let me pursue one thing further. Is it also fair to say that you really have no

personal knowledge of the natural mother? Your knowledge of the natural mother is based solely on what has been told to you and what you read, of course.

A Yes.

MR. CRICKENBERGER: Thank you. I have no further questions.

THE COURT: Redirect?

REDIRECT EXAMINATION

BY MR. ARCHER:

Q Nevertheless, Dr. Kehne, it is a fact, is it not, that you were aware that it was part of the history of this first separation or loss that brought about the terms, the recommendations that were made by the court or all of those concerned about her welfare?

A It's a fact, yes. And it's been my experience in court that one is asked to make certain comments based on the facts known to everyone.

Q Now, it is also a fact is it not, that the past history of a patient for instance is an important cog in the diagnosis?

A Indeed it is very important.

Q Isn't it true also that such a past history does not form a basis for medical opinion or your opinion in

this case, but rather as a part of the picture bearing on the total picture?

A Yes, it is sort of a reference point in space and we recognize this to have an element of value, but they are pieces to a puzzle, and there are many pieces.

Q And isn't it fair to say that assuming the history of Heidi that you got is correct, your opinion as to the traumatic effect on her of a second transition, whether now or in the future, would be worse in her case than if she had not had that history?

A Yes, sir.

RECROSS EXAMINATION

BY MR. CRICKENBERGER:

Q I'm assuming that the history that you have for Heidi is unfavorable as far as the natural parents are concerned. I would like to know if your opinion would be changed any if you found out in a similar situation there were a favorable background, that the background to which the child might be returned would be approximately equivalent to the background that she presently has and the only factor is one of separation.

A I can give you a pretty solid, yes. It wouldn't alter my recommendations.

Q Your recommendations would be the same regardless of whether the home that Heidi were to be, what might be called a good home or the factor of separation alone would maintain this position.

A These are her parents. Removing her from her parents to another party would be very hard for her to understand. I doubt if she could understand it. May I say that what kind of information that is provided to me by any adults who are concerned about the course of a child's life, I always recognize that there are always pluses and that the natural mother could care for this child and could have a limited capacity to sustain her responsibility, but to the level of her being she could care for her child, I don't doubt that.

What I am concerned about is that at the present time we have a child who has known love and the capacity of it and the understanding of the gives and takes, and she has her parents' help.

She has a life, and it, as I say, has to be looked at in my view and the point of view of the child who could appreciate this and what it would mean to her in a conflicting situation.

Q If there are two or more parties who want to

have custody of a child and the child is presently well adjusted and their home life adequate or superior, can you conceive of any situation where you would recommend the change?

A The way I would answer that is to say that if a child reaches maturity in the present home and were given the option to choose where she might want to live in the future, but through the eighteen year waiver, my opinion is that other things being equal she has a right to a sustained secure world or anyhow at least some constancy, some terms of developing herself.

Q What was the answer to my question? You really could not conceive of a situation where a child is incapable of making an intelligent decision, that you would recommend separation.

MR. ARCHER: Your Honor, that is an impossible question to answer.

MR. CRICKENBERGER: Let me try to word the question a little better.

MR. ARCHER: What are you after? What is the purpose?

MR. CRICKENBERGER: I'll tell you after I rephrase my question.

MR. ARCHER: She has already answered it.

BY MR. CRICKENBERGER:

Q I'm trying to find out, Doctor, whether or not you could conceive of any circumstance that you would recommend that a well adjusted child who has an adequate home should be moved into another home.

A Well, no.

REDIRECT EXAMINATION

BY MR. ARCHER:

Q One further question. I notice in the question there was nothing about the other home it would be moved to.

A Yes.

Q If the other home were above the standard in which the child presently was living, that would be a conceivable situation in which the child would be moved, wouldn't it? Or if the home to which he was moving was superior, that would be a situation in which you could conceive being moved to.

A Let me answer that I don't think the superiorness or inferiorness of the home is an issue. We know many wonderful people who come out of homes of poverty.

We're talking about the capacity to love, the

capacity to sustain a responsible parent-child relationship, to have a continuity of relationships, of something that is growing and the home and family roots.

So what you are talking about is really the change, the future potential. The roots are in and the plant is growing and there's no determinate way of talking about this four-year-old period. There is no more key time in object relationships. What do people matter? What can I count on from a person? Do they matter? Are they real? Do they stand up under my temper and still hold me and let me grow? It is a time of learning if people matter and for caring about people.

MR. ARCHER: Thank you very much, Doctor.

THE COURT: Do you want Dr. Kehne excused?

MR. CRICKENBERGER: No objection.

THE COURT: You are free to go, Doctor.

Call your next witness.

MR. ARCHER: I call Lieutenant Commander Clements.

- - -

Thereupon

WILTON R. CLEMENTS

was called as a witness, and after having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Would you state your name and occupation, please, Mr. Clements?

A Lieutenant Commander Wilton Raymond Clements. I'm a Naval Officer in the United States Navy.

Q And you're married to Ilse Clements?

A That's correct.

Q And you are presently the prospective adoptive father of Heidi.

A Yes, sir.

Q And you have heard the testimony that has gone on today, Commander Clements, particularly that you went over to Germany in April of 1970, which was for the purpose of picking up Heidi, is that correct?

A It was for two purposes: I was going over there for a meeting concerned with my work, and the second purpose, it was a good opportunity for the two of us to go together to pick up the child and for me to be able to meet my wife there to get this adoption started and to take the child and bring her back to the States.

Q How long were you there during that first period?

A From I believe, April 4th. I arrived in Germany

on the first of April. I met my wife and her sister-in-law Elfride and her husband, and Ilse's mother at the airport while I was waiting to change planes and go to Wilhemlshaven where my meeting was taking place. Friday the 3rd, after the meeting was over I went down to Frankfurt to spend the weekend, and then returned again Wednesday evening the 8th to Frankfurt.

Q I see, now did you have occasion to speak with Anneliese during this weekend?

A I did, yes, sir. As my wife said earlier, we met Saturday at the military commissary, which is in the city of Frankfurt.

Q How many occasions did you speak with her or see her that weekend, Anneliese?

A Saturday and Sunday, two times.

Q And did you have an opportunity to discuss with her the plans for adoption?

A Yes, sir, we did. This was the first time that I had ever met her, you realize. Her very first words were, "Here is your daughter," and she handed me the child.

We talked and got acquainted the rest of the afternoon. We also, as my wife said, bought some food

and things because my wife had expressed to me the conditions under which the child was living and brought me up to date on what had occurred the previous month with the adoption and the conditions of Anneliese and all the current events.

Q Did Anneliese -- would you tell the Court whether or not Anneliese indicated to you in any way during this weekend that she was opposed to that adoption?

A She did not indicate in any way that she opposed it.

Q Would you tell the Court whether or not she indicated to you that she was in favor of it?

A She certainly did by every action. The very first thing above everything else the word "adoption" was frequently used throughout, in every opportunity we had to talk or any time we met.

Q Now, did you have occasion to visit the place where Anneliese lived?

A I did so the first day after we bought the food which resulted in around $18 worth of canned meat, such as Spam, Vienna sausage, and things like that.

Ilse had told me that she did not have a refrigerator or any form of keeping any kind of fresh

food, so you can imagine $18 worth of food, canned.

It was quite heavy and large. So we took a taxi with Heidi and Anneliese and Ilse and myself back to the place where she lived.

Ilse had prepared me as to what to expect, but I was still appalled at the conditions of the place. This is the home, Anspacherstrasse is the name. This was welfare housing. It was a building in appearance quite like a barracks, about three floors with a central hallway going to where they live.

We went up the stairs and down the hallway and as we left the central hallway going down to her room, there was an unmistakable odor from the toilet washroom.

As you left the central hallway and walked down, we saw a room on either side which were rooms approximately half the size of this area right here. (Indicating)

THE COURT: You say "this area." Do you mean from this bar to the wall?

THE WITNESS: Half of this, even, and it was one room where the family lived, and it was one of these rooms that Ilse's sister was living with the child.

BY MR. ARCHER:

Q Now, did you have occasion after you returned

on Wednesday to talk with Anneliese about the adoption again?

A Yes, sir. We did not Wednesday night because I got back late in the evening. One event did happen that night though which was strange.

I got back to Frankfurt from Wilhemlshaven after the plane let down, I believe eight or nine in the evening. We were staying with Ilse's other sister, Elfriede's home.

We went through the usual, you know, talking and so forth and getting my bags straightened out and then went over to Ilse's brother, my brother-in-law, Dieter Schnabel. He lived in the same apartment complex as Elfriede and her husband. It's another building a block or so away.

While we were over there, Elfriede's son, Peter, came over and said that there had been a phone call from Anneliese and that Elfriede wanted us to come back to the apartment.

We went back and asked what the trouble was. About this time it was about midnight or shortly thereafter, and Anneliese had called and wanted to know if we knew where Viktoria was, Anneliese's second daughter, the one with the hearing problem.

Q How did Viktoria happen to be with Anneliese?

A This was Easter, or the week after Easter and it was a holiday and she had been given, evidently, permission to spend the night with her mother from the welfare home where she was living.

And Anneliese wanted to know if Viktoria was over to our place or if we knew where she was. Well, we didn't. Ilse and her mother, of course, because of the fact that Viktoria is handicapped and wears a hearing aid, were very concerned that nobody knew where she was and it was after midnight and in the middle of a city.

So we got in Dieter's car and went with Dieter and his wife, Ilse and myself, and Ilse's mother and went out looking for Viktoria trying to find out where she was.

First we went to Anneliese's apartment at Anspacherstrasse. Ilse and Dieter, Ilse's brother, and I went in to talk to Anneliese to find out if, you know -- by this time practically an hour had passed -- if Vicky had come back.

Well, she had not and Szemler was there with her and they were both in the apartment. Well, we decided then we'd better look a little bit further. So we went to Alfred's apartment. This is her ex-husband.

Vicky wasn't there. We also went to another brother's home and checked there, but we couldn't find Vicky anywhere.

By this time it was probably two o'clock or later. So Dieter took us back home. He said he would like trying to get in touch with the police and finding out if anything had happened.

Q All right. Now, did you before you left on the 12th, inform Anneliese when you were leaving?

A Yes, sir, we did. The last time we saw her was a Friday, the 10th, and she knew at that time that we were leaving on the 12th.

Q All right. Did she come to the airport with you?

A No, sir; she did not.

Q Did she telephone you?

A She did not.

Q What flight did you -- how did you travel back to the United States?

A We returned on TWA, Trans World Airlines, and were on flight 709. We had flight 763 from Frankfurt to London and from London to Washington it was flight 709.

Q That was all TWA?

A Yes, sir; this was a direct flight that goes

straight through.

Q Can you tell the Court whether or not Anneliese is working now?

A Yes, she is.

Q Will you tell the Court what sort of work she is doing?

A Yes, sir; she is working in a Teasco. In Germany a Teasco is a sidewalk stand where they sell almost anything, newspapers or soft drinks and in some cases beer, magazines.

Q Can you tell the Court where she puts the child she now has when she works? The second child allegedly by Mr. Szemler, is it in a day care center?

A The child is in the Teasco with her all day.

THE COURT: This is the fourth child, the eight month old?

THE WITNESS: Yes, sir.

MR. ARCHER: Your Honor, could we have a rest stop now?

THE COURT: We'll take time for a recess.

(Thereupon, a short recess was taken, after which the following proceedings were had.)

BY MR. ARCHER:

Q You have testified that Anneliese knew when you all were leaving.

A Yes.

MR. ARCHER: That's all I have, Your Honor.

CROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Commander Clements, you stated that when you first met Anneliese, she was living on Anspacherstrasse, is that correct?

A Yes.

Q And what is that?

A That's welfare housing.

Q Do you know where she lives now?

A I don't recall the name of the street.

Q Does she live in the same place?

A No, she does not.

Q Have you had an opportunity to observe where she is now living?

A I have not.

Q When did you see her youngest child in a day care center? You stated that her youngest child was kept in a day care center.

A I did not.

Q What did you state about the youngest child? I must have misunderstood your testimony.

A I said -- Mr. Archer asked if she was working, Anneliese, and I said, yes, she was, and that it was in the Teasco business, and I said the child was in the Teasco with her. The child is not in a day care center. The child is with her.

Q How are you aware that she is presently working?

A Through Ilse's sister, Elfriede.

Q Have you ever seen her work there?

A No, sir.

Q Do you have any personal knowledge that she is working there, personal knowledge, firsthand knowledge?

A No.

Q So your testimony is based on what someone else has told you?

A Yes, sir.

MR. CRICKENBERGER: I have no further questions.

THE COURT: I have a couple.

EXAMINATION BY THE COURT:

Q This present house you are living in, how many bedrooms do you have?

A Three, sir.

Q Who lives there besides your wife, Heidi and yourself?

A No one else.

Q Briefly, what is your present financial condition? Just briefly, what is your present financial condition?

A My annual income is $17,919.30.

Q Are you buying this house you are living in?

A Yes, sir.

Q Are you buying an automobile, also?

A No, sir.

Q Okay. Other than the home with the mortgage and the monthly payments, do you have any other monthly debt like clothing or any other major debts?

A Nothing other than some land. We have a piece of land that we are buying in Front Royal and that's $78 a month.

THE COURT: Okay. That's all I have.

MR. ARCHER: May I ask the Court whether or not there's a report from the welfare commissioner in the file?

THE COURT: There is. Do you want to take notice of that?

MR. ARCHER: Although it opposes the adoption, I would want the court to take notice.

THE COURT: You're stipulating to the welfare report?

MR. ARCHER: Yes.

THE COURT: You are not concurring with the recommendations, but the factual part of the welfare report.

You may step down, sir.

MR. ARCHER: Wait a minute.

REDIRECT EXAMINATION

BY MR. ARCHER:

Q What are the benefits you receive or your family would receive from your government service? Can you tell us briefly?

A Yes, sir. Of course there is one particular point worthy of notice and that is the medical benefits Heidi can receive. One of the benefits is the special program in the military for handicapped children, such as those with speech problems or something like that.

Really the government will support up to 80 percent of any therapy required. Of course, there is Medicare through the service, too.

Q Is there dental care?

A No, sir; no dental care for dependents unless there is dental work with another problem such as a speech

problem.

If it can be shown it is directly connected with a mouth problem having to do with teeth or something, he could take care of that.

Q Go ahead.

A And in the event of my death, for example, besides my wife and children as a matter of record, Ilse would receive with Heidi, I believe, it is $770 per month from the government while I'm in the military.

Q All right. I have a couple of documents I just remembered.

I would like you to identify these documents. (Handing documents to witness)

A (Witness examines documents) Yes, sir. These are both documents that we completed in connection with bringing Heidi into the United States for the immigration service.

Q All right, sir. Are these the originals of these documents?

A Yes.

Q Where did you obtain them?

A Both of these documents were obtained from the immigration officer at the consulate in Frankfurt.

MR. ARCHER: All right. Mark these for identification if you will, please, Your Honor, six and seven, is that correct?

THE COURT: Petitioner's exhibits six and seven.

BY MR. ARCHER:

Q Mr. Clements, while Mr. Crickenberger is looking over those documents, is there any benefit provided by the government for Heidi if she wanted to go to college?

A There are certain veterans' benefits she would be eligible for in the event of my death or something like that.

Q I see.

A There is also a scholarship available for daughters of naval officers, this type of thing.

MR. CRICKENBERGER: I have no objection to that.

THE COURT: This is exhibit six and seven and they are admitted without objection.

(Thereupon, the documents referred to above were marked Petitioner's Exhibit Nos. 6 and 7, in Evidence.)

BY MR. ARCHER:

Q I would like you to read one part of this exhibit seven Mr. Clements, this part right here and start out

describing this a little bit for us, what it is.

A This is a document that petitioner must fill out in connection with filing a petition for immigration and it reads:

> "In connection with your letter and/or visa petition on form I-600 concerning the adoption of the adopted child it is necessary that you comply with the items checked below. Then return this letter with the requested information, documents and forms."

And a number of items are listed such as birth certificate and the next to last one being irrevocable release of the natural mother for the child's adoption by you and your spouse and emigration to the United States, if the adoption is not final. An English translation is required.

Q Now, did you present this to the immigration service, the consent agreement that we have entered into evidence?

A I did, sir.

Q Did they accept this in satisfaction of these requirements?

A They did.

Q All right. Now, let me ask you one further question, if I may.

Would you tell the Court whether or not you and Mrs. Clements would have instituted adoption procedures if Mrs. Anneliese Sebisch had indicated objections or doubts before the adoption?

A You mean prior to our leaving Germany?

Q Yes.

A Of course, that's rhetorical. My reaction would have been to have gotten a lawyer right at the time in Frankfurt and to have gone directly to the welfare agencies and let the welfare --

Q This is not exactly what I'm asking you. Let me put it another way:

Would you tell the Court whether or not you would have been prompted to proceed with taking custody of Heidi and with instituting adoption procedures had there been an affirmation by Anneliese of a willingness to adopt?

A Definitely.

MR. ARCHER: Thank you. That is all.

RECROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Just a question or two more, Commander Clements.

On exhibit six, which is form FKG-22, that form contains certain information. How was that information placed on that form? Did you furnish that information to someone, or did you type that up yourself or have someone type it for you, and you gave them that information about you and the child and so forth?

Where did that information come from?

A Give me a moment. I'm trying to recall.

Q Take your time.

A (Witness reads document)

Q Do you type? Let me just ask you a few questions.

Do you type yourself?

A Yes.

Q Is it possible you could have typed that?

A I believe it was, but I cannot say definitely. I recall that I'd filled out a number of forms other than this form. Perhaps I don't remember specifically typing this one.

After Ilse arrived in Germany and prior to my going over there, she mailed me back a package of forms, among them were things such as commanding officer's

security, salary, and things like that and I filled out a number of them.

Q But either you typed it or you furnished the information.

A As I said, I don't recall for sure. I may have filled it out.

Q Do you see anything on there that is incorrect, let me ask you that, other than your salary which may have been changed since that time? Do you see anything that is incorrect at the time it was filled out?

A It appears to be correct.

MR. CRICKENBERGER: No further questions.

THE COURT: Let me ask you: do you recall receiving a revocation from Anneliese in the spring of 1970?

THE WITNESS: Yes, sir.

THE COURT: When was that?

THE WITNESS: It was after we had filed the petition and we'd signed it. Mr. Trotter was the officer, I recall. It was a week or two later, maybe later.

MR. ARCHER: That's all I have, Your Honor. I believe that revocation is in the file, but I don't know whether there's a letter with it. I would like to clarify that point somewhat by introducing this letter.

Would you identify that letter, please? (Handing document to witness)

THE WITNESS: Yes, sir; this is the letter that we received signed by a man by the name Herzsprung.

THE COURT: What's the date of the letter?

THE WITNESS: The date here is 9-6-70. Normally in German it goes by the day, the month and the year.

THE COURT: That would be June 9, 1970.

THE WITNESS: Yes, sir.

MR. ARCHER: Would you receive that revocation?

THE COURT: Is that the letter by which you received a copy of the revocation?

THE WITNESS: Yes.

THE COURT: I cannot rule whether this even crossed with the revocation document, nor if it came about the same time, but I can okay it by that time.

Did you receive any other letter from Herzsprung?

THE WITNESS: I remember receiving one registered letter that had a revocation.

That letter, does it say "registered" anything?

THE COURT: This is it here. So you think this is probably the way you received a copy of the revocation?

THE WITNESS: I believe it was, yes, sir.

THE COURT: Show it to Mr. Crickenberger.

(Document handed to Mr. Crickenberger)

MR. CRICKENBERGER: No objection.

THE COURT: Number eight. Any further questions?

(Thereupon, the document referred to above was marked Petitioner's Exhibit No. 8, in Evidence.)

MR. ARCHER: That's it, Your Honor.

THE COURT: You may step down, sir.

(Witness excused)

- - -

MR. ARCHER: That's our case, Your Honor. We understand that Mr. Crickenberger's evidence consists of the depositions.

THE COURT: The usual procedure is that the petitioner rests and then we'll see what he wants to offer as evidence.

MR. CRICKENBERGER: Your Honor, the opponent is not present in person and our case consists entirely of documents which are in the record and are to be introduced into the record.

THE COURT: Tell us exactly what you want introduced.

MR. CRICKENBERGER: First, we have here an

affidavit regarding Tibor Szemler, a party opposed to this order. I would like to introduce that affidavit.

MR. ARCHER: No objection.

THE COURT: This will be defendant's exhibit one and this will be the affidavit of Mr. Szemler.

(Thereupon, the document referred to above was marked Defendant's Exhibit No. 1, in Evidence.)

MR. CRICKENBERGER: Then for exhibit two which we would like to have made a part of the record, the order of 7 June 1971, signed by Judge Pohan, District Court of Frankfurt. That's an order and the translation, and they are not recorded, I don't believe.

THE COURT: Let me just make sure which one is correct. This is just a translation of the District Court certification.

MR. CRICKENBERGER: That's right.

THE COURT: This will be number two. 2A will be the order and 2B will be the translation.

Any objection to defendant's exhibit two?

MR. ARCHER: No, sir.

(Thereupon, the documents referred to above were marked Defendant's Exhibit Nos. 2A and

2B, in Evidence.)

THE COURT: Now, number three is what, sir?

MR. CRICKENBERGER: Number three, Your Honor, will be the depositions obtained in Germany. They are all lumped together in one group. There were nine witnesses that testified. We would like to make six of them our witnesses for the puposes of our case.

THE COURT: All right.

MR. CRICKENBERGER: Mr. Szemler is number one and his wife is number two. They are the two petitioners, and Mr. Herzsprung, their lawyer, and Mr. Kotzias was the lawyer for Commander Clements, and Ilse Baudy is the clerk.

Now the witnesses we would like to present for the defense or opposition are on page four of the translation. You'll have to excuse my pronounciation of the names.

Frau Gisela Pribusz.

THE COURT: Okay.

MR. CRICKENBERGER: And page six of the translation is Frau Maria Neuschutz.

Page fifteen of the translation is Dezso Pribusz.

THE COURT: Page fifteen. Sir, let me just first get the one on page four, Frau Gisela. G-i-s-e-l-a and

Pribusz is P-r-i-b-u-s-z.

MR. CRICKENBERGER: And on page five is Frau Irene Burckhardt, B-u-r-c-k-h-a-r-d-t.

Page six is Frau Maria Neuschutz, N-e-u-s-c-h-u-t-z.

And page fifteen is D-e-z-s-o P-r-i-b-u-s-z.

THE COURT: Okay.

MR. CRICKENBERGER: And then on page seventeen is Tibor Szemler.

MR. ARCHER: T-i-b-o-r S-z-e-m-l-e-r.

MR. CRICKENBERGER: And page twenty-one is Anneliese Szemler.

THE COURT: Are there any objections to the depositions that have been offered by the defendant?

MR. ARCHER: No, sir.

MR. CRICKENBERGER: That's our case.

THE COURT: What about the revocation?

MR. ARCHER: The revocation, I think the German attorney sent it directly to the court. It's in the file somewhere. I know there was.

THE COURT: I want to keep the record straight. Your witness referred to it also as the revocation order of June 9, I believe.

MR. ARCHER: I'm not offering the revocation.

MR. CRICKENBERGER: We would offer the revocation as part of our case.

THE COURT: I'll mark it defendant's exhibit 3A, the revocation, and 3B will be the translation. Does that complete your case, sir?

MR. CRICKENBERGER: Yes, sir, Your Honor.

THE COURT: Are you going to rebut on some of the rebuttal by way of depositions?

MR. ARCHER: Yes. How are the depositions to be referred to?

THE COURT: Let's just call them depositions.

MR. ARCHER: All right, sir.

THE COURT: The defendant rests at this point. Is that right, sir?

MR. CRICKENBERGER: Yes, sir.

MR. ARCHER: Your Honor, the other witnesses who testified in the depositions would be our witnesses and we would like to have those marked.

THE COURT: Do you have any objections?

MR. CRICKENBERGER: No objections.

THE COURT: So the remaining depositions are offered by the petitioner as part of their case in chief, without objection.

MR. ARCHER: Yes, sir. Do you want me to name them or not?

THE COURT: Just for the record.

MR. ARCHER: Frau Ursula, U-r-s-u-l-a, Huber, H-u-b-e-r. That's page two.

Page nine is Hilde, H-i-l-d-e, Brand, B-r-a-n-d.

THE COURT: Okay.

MR. ARCHER: And Frieda Ilse Sebisch, S-e-b-i-s-c-h, on page eleven.

THE COURT: Okay. Is that it, sir?

MR. ARCHER: Yes, sir. For my rebuttal I will call Mrs. Clements to the stand.

- - -

Thereupon

ILSE FRIEDA CLEMENTS

was recalled as a witness, and having been previously duly sworn, was further examined and testified as follows:

DIRECT EXAMINATION

BY MR. ARCHER:

Q Mrs. Clements, you remember that you are still under oath.

Mr. Crickenberger has just introduced the deposition of Mrs. Neuschutz. Did you have any conversation

with her, yourself, about Anneliese?

A Yes.

Q And the child Heidi?

A Yes.

Q Would you relate that conversation, please?

A Mrs. Neuschutz told me while Anneliese was sitting in the place and having a cup of coffee -- my sister, Anneliese, Mrs. Neuschutz and I -- Mrs. Neuschutz told me that Mr. Szemler come always every night, sometimes drunk, sometimes sober. One night Anneliese was at home and he wrote "whore" all over the door and in the hall and in the doorway.

THE COURT: He wrote "whore" on whose door?

THE WITNESS: Yes, on Anneliese's door.

BY MR. ARCHER:

Q Did you and Mrs. Neuschutz discuss the adoption of Heidi?

A Yes.

Q What did she say about the adoption?

MR. CRICKENBERGER: Your Honor, I object to this line of questioning on rebuttal. I don't mind his asking anything to rebut the testimony that has been directly given in the depositions, but to go into other unrelated

conversations with the witness here and getting her opinion or her view of things, I don't think that should be dealt with directly in the depositions. I think it is going a bit far afield.

If Mr. Archer can relate to the portions of the depositions he is trying to rebut, that may help.

THE COURT: On page six, are there any questions relating to any of the particulars in that deposition?

MR. ARCHER: Yes. Are you talking about the last question?

THE COURT: Yes.

MR. ARCHER: I don't know if that does. Look at page seven.

THE COURT: (Reading from deposition)

"Q Was the word 'adoption' ever mentioned?"

"A She said that the child Petra would go over for a year at first."

And then it says, "I ask you again, was the word "adoption" ever mentioned?"

And the answer is, "Not to me. I only knew of the one year."

I don't know what that means.

MR. ARCHER: I don't either.

THE COURT: Objection sustained.

MR. ARCHER: My rebuttal is that Mrs. Neuschutz knew about the adoption.

MR. CRICKENBERGER: Well, I think it might be allowed in a deposition. It says she did at the top of page seven.

THE COURT: Well, at the top of page seven:

"Q Did she say that this adoption was to be undertaken by the American couple Clements?"

MR. CRICKENBERGER: Yes.

THE COURT: I don't see --

MR. ARCHER: (Interposing) Further on down:

"Q Was the word 'adoption' ever mentioned?

"A She said that the child Petra would go over for a year at first.

"Q I ask you again was the word 'adoption' ever mentioned?

"A Not to me."

THE COURT: The answer is unintelligible. "I

only knew of the one year."

I don't know what that means.

MR. ARCHER: The question at the top:

"Q Frau Neuschutz, did Frau Szemler ever speak about an adoption of Petra Sebisch to you?

"A She did, indeed."

THE COURT: Well, yes, it is mentioned there.

MR. ARCHER: The second question, now on page seven, about the middle of the page, the question is put to Mrs. Neuschutz:

"Q Frau Neuschutz, do you know anything about family discord between Frau and Herr Szemler?"

BY MR. ARCHER:

Q I ask you, Mrs. Clements: did Mrs. Neuschutz mention anything to you about family discord between Mr. and Mrs. Szemler?

A Yes, she did. Mrs. Neuschutz say he come late at nighttime and then they have argument together and scream and fight and then the little girl screams and crys and it takes them a long time to get her quieted down.

The next morning he leaves. I asked Mrs. Neuschutz, "Shouldn't you have a couple of men who live on the floor to go up and tell him to leave?"

She says, "No, we would never touch him. We will never do nothing to him." She says, "He carries a gun."

When Mrs. Neuschutz told me about it I just had to remember that he tried to get naughty with Monica, you know, to have intercourse with Monica, and then she say, "It was nothing."

Then I told Mrs. Leichenstein about it, about what Mrs. Neuschutz told me.

And I ask her, "Does he try with my niece, Monica?"

And Mrs. Leichenstein told me, yes, and something about that Mrs. Sebisch was afraid to talk because he threatened her with a gun. That's what Mrs. Leichenstein said to me.

Q All right. On top of page eight, I refer to Mr. Szemler taking care of the child.

Did Mrs. Neuschutz say anything to you about whether or not Mr. Szemler took care of the child?

A Mrs. Neuschutz, she told me -- she says he never give Anneliese money, and she told me that he said he

don't have to pay for the child, that Anneliese can go out and work for her kid. Mrs. Neuschutz told me that.

Q All right.

A Well, she said, "Why don't you throw him out if he don't pay for the child?"

And Anneliese says, "I can't understand why he don't pay. He told me I can go to work. He said, 'I don't have to give you nothing. Work for your kid.'"

Q All right. Now, referring to the deposition of Tibor Szemler on page seventeen.

A Yes, sir.

Q The answer to that at the bottom of the page.

"A I love my child. I'm in a position to take care of my child both financially and from the human point of view, spiritually. I never agreed to an adoption of my child. I also did not know that the couple Clements wanted to take the child with them to America. Had I known this I would have put a stop to it. I cannot

imagine that my wife had agreed to an adoption. We loved our child very much and we looked after her very well..."

I ask you, Mrs. Clements, if Mr. Szemler knew about the adoption, proper adoption, and that you all were going to take Heidi. Did Mr. Szemler know? Did he consent?

A He saw the consent, yes.

Q Can you tell the Court his attitude?

A He said, "So what?"

Q And when was this?

A This was the 27th of March, Good Friday.

MR. ARCHER: Your Honor, that would be Mrs. Clements' testimony in rebuttal.

We have some little bit from the Szemler deposition on page seventeen and eighteen.

THE COURT: Okay.

BY MR. ARCHER:

Q I would ask you this with reference to the question and answer at the bottom of page eighteen. Two questions and two answers.

"Q Do you know how the couple

Clements left?

"A I only know this from what I have been told. I know that my wife's brother, Rudi Schnabel, said that he had lent his car to the couple Clements so that they could arrive somewhere perhaps to town. The exact destination was unknown.

"Q What happened then?

"A He got back his car about eight days later through the police. He was notified that the car was left abandoned in front of the American military air base in Frankfurt and he should come and fetch it. This points to the probability that the Clements left with a military plane because they realized that they were doing something illegal. They were afraid that the police would

stop them at a civil airport..."

How did you and Mr. Clements actually leave for the airport?

A We left and went to the airport by taxi, and from there waited for the plane to fly to London, and then down to Washington, and we flew sometime in the morning, 8:45, something like that.

Q At any time did you borrow Rudi Schnabel's car?

A Yes. Rudi took us with his moving truck up to Giessen to see his wife, so we could meet her and stay overnight. He had to go back to Frankfurt the next day to move some people and we were supposed to go back with him. The people call to say they don't need moving truck.

So Rudi gave us his car and we went in the car driving back to Frankfurt. He say he will pick it up after we leave.

Q Where did you leave the car?

A We left it down close to the PX in the hotel parking lot. We stayed in American hotel that night. He knows where it was and he picked it up from down there, and we left the keys with the desk clerk. And it had a German license and we told the man the car would be picked up.

Q Did you tell him in advance where you would leave the car, in advance of your taking the car?

A Yes. My brother picked it up with his wife and my sister. Rudi and his wife came down from Giessen on the train. My sister, Elfriede, met them at the train station and they all went to pick up the car.

You see, he got the car, he have a moving company, so he have a truck too, he moves things.

MR. ARCHER: That's all I have, Your Honor.

CROSS EXAMINATION

BY MR. CRICKENBERGER:

Q Mrs. Clements, when did Frau Neuschutz talk to you about the adoption?

A That was when I got down there. It was about four or five days later when I was at my sister's.

Q Would this be the year 1970?

A Yes, sir. At the time, understand, all of us was just talking. We was just talking. I got my sister to pick up two more papers, get some work done, and when I got to my sister's room, she was not in. I could hear her voice and I knocked on the door and she told me to come in, and my sister and Mrs. Neuschutz and her husband were having coffee.

Q Have you talked to her since that time?

A I talked to her a couple of more times before I left.

Q Have you talked with her since April, 1970?

A You mean after I left Germany?

Q Yes.

A No, sir.

Q Were you aware that her deposition was given in 1972? Have you seen her this year?

A No, I haven't seen her.

Q You're testifying then to what she told you.

A When I was there over two years ago, yes.

Q So you have no personal knowledge two years later, is that correct or not? Is that right?

A I don't understand these questions, please.

Q Her testimony was given this year, several months ago.

A Yes.

Q Now, it is my understanding that you're trying to contradict that testimony based on your conversation with her two years ago.

A Yes, sir; this is what the lady and I talked about.

Q But you have no personal knowledge as to what she may think about the situation or may know about the situation right now, is that right?

A I don't know, sir.

Q You have never talked with her in the last two years?

A No, sir.

Q Did you meet Mr. Szemler in person when you were over there?

A No, sir. I met him for the first time when he showed up at our place.

Q You just testified that he consented and said, "So what?"

A My niece, Monica, come to my sister's place, Elfriede and I was sitting in the room by myself when my niece, Monica, come to me and told me that he said that.

Q Were you there?

A No, I was not there. My niece told me it the first thing.

Q Did you see --

A (Interposing) I told --

THE COURT: (Interposing) Just answer his question.

BY MR. CRICKENBERGER:

Q Did you see him tell her or say, "So what"?

A No, sir.

Q You did not see or hear him make any remarks about it?

A No, sir.

Q You have no firsthand knowledge that he even said it, is that right?

A No, only what I heard. I do not know Mr. Szemler. All I know is when I met him how rude he was and what I heard from people, and my brother was down there and was with him.

Q You didn't meet him until October, 1970?

A No, sir, I met him here.

THE COURT: Anything further by way of rebuttal?

REDIRECT EXAMINATION

BY MR. ARCHER:

Q Anneliese mentioned to you about an incident. Will you tell us about it?

A Yes. I said something about, "Does your boy friend know?"

And she said, "He knows about everything."

And then my mother and brother was one evening

My brother, Dieter, he works for a company, he takes food to different restaurants and things like that. He takes chicken and stuff down there.

My mother and Dieter drove down and Mr. Szemler was down there too, and my sister told him right in front of them, and she said to Heidi, "You're going to have a new mama and a new daddy."

MR. CRICKENBERGER: Your Honor, I have to object. She's testifying to what someone told her.

THE COURT: Sustained.

MR. ARCHER: That's all, Your Honor.

THE COURT: Anything further?

MR. CRICKENBERGER: None. That's all the evidence.

...