MAINTENANCE COLLECTIONS FROM PUTATIVE FATHERS

An evaluation of the administration of the Children of Unmarried Parents Act in British Columbia with special reference to the relative merits of settlements and continued monthly payments.

by

PATRICIA REED

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ABSTRACT

This study is concerned with the problem of obtaining maintenance payments from putative fathers for the support of children born out of wedlock. The essential material is derived from a group of cases chosen to compare the methods of maintenance collections which have evolved in practice under the Children of Unmarried Parents Act, namely, affiliation orders, agreements, and lump-sum settlements.

Analysis of a group of affiliation-order cases shows that the necessity of court action to prove paternity and make an affiliation order for maintenance is evidence of a maladjustment in the social situation. Agreements are a desirable method for the support of a child over a sixteen-year period, provided it is judged that the putative father is willing to share responsibility for the care of the child over a long-term period. On the other hand, the experience of lump-sum settlements suggests that they have several advantages. When these cases are properly handled, the unmarried father may be relieved of his obligation, particularly if he has legitimate family responsibilities; this solution assures the child a definite sum of money and breaks emotional ties of the kind which may be often upsetting to the girl and prejudicial to the putative father.

The question arises as to how children born out of wedlock will be supported if orders, agreements, and settlements are not always satisfactory methods. An invariable situation is that putative fathers tend to have comparatively low incomes so that they provide only small regular payments; also settlements may not be sufficiently large enough to be acceptable to the unmarried mother. Relevant cases show that it is destructive to make an affiliation order or an agreement against a putative father when he is unable to pay because of unemployment or unwillingness; moreover, it is also destructive to make an order or an agreement for an amount beyond his financial and emotional ability to pay. The study suggests, in these cases: Social Allowance for the unmarried mother and the child, or a fund to supplement the mother's earnings and to bridge the periods when the man is unable to pay.

Social work must play an important role in adequate treatment of unmarried parent cases. Putative fathers should be treated as individuals who require the skill of case workers in order to solve their conflicts involved in providing maintenance. The study points up the need for more professional personnel who are capable of handling unmarried parent cases,— also a need for a much broader perspective on the whole program. Hopefully this thesis may clarify the newer philosophy that forcing maintenance collections from putative fathers affords little protection to children born out of wedlock. It is through case work and understanding that a putative father will willingly share responsibility with the unmarried mother in the protection and care of the child.
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CHAPTER I


The Children of Unmarried Parents Act, 1936, offers protection both socially and economically to children born out of wedlock and authorizes maintenance collections from putative fathers. The forerunner of the Act was the Support of Illegitimate Children's Act dating from 1903, which was introduced in the Legislature in Victoria by Chief Justice A. E. McPhillips. He explained that there was no previous legislation of this kind and that the legislation which he was presenting was an exact copy of the Ontario Act. Subsequently the B. C. Act became a part of the Infants Act in 1911. These two Acts made provision for support but not for protection of children born out of wedlock.

In August, 1922, the Canadian Welfare Council recommended that the rights of the child born out of wedlock should be safeguarded, and on December 16, 1922, an Act to provide for the maintenance of children of unmarried parents was passed by the Legislature in Victoria. The legislation was presented to the House by Judge A. M. Manson. Apparently Ontario again led in introducing this legislation and the Act appears to be fairly standard throughout the Canadian provinces. The Act has been amended three times since 1922. These are minor amendments which have not varied the function. The most critical amendment in 1927 redefined

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1 Holmes, Provincial Librarian, Victoria, B.C., letter to the writer January 17, 1950.
3 Holmes, loc. cit.
the meaning of "magistrate" and defined the meaning of "mother". It is worthwhile noting that British Columbia was among the first provinces to incorporate into its laws the principles of social protection for the child born out of wedlock.

In 1918 under the Infants Act a Superintendent of Neglected Children was appointed in Victoria. The duties of the Superintendent included protection of children as well as supervision of the Industrial Schools and supervision of Mother's Pensions. Up to 1931 it was urged that for the protection of the child a full-time Superintendent was necessary. In 1931 provision was made for a Superintendent of Welfare and of Neglected Children in Victoria, and for a Deputy Superintendent in Vancouver. Actually the administration of unmarried parents' cases proved almost impossible to accomplish because the Superintendent had no staff to carry out the purpose of the Act.

It is interesting to note the number of cases carried shortly after the passing of the Act. In 1923–24 the Superintendent reported that court orders against putative fathers were almost impossible to enforce. There were forty-five cases of which twenty-three, including seven court orders, were active. Payments were collected on only two of these orders. In 1926–27 there were forty-nine cases reported with £1,962.75 being collected (approximately £43.00 for each case during the year). In 1927–28, one hundred and sixty-one cases were reported with £3,000.00 being collected. Miss Isabel Harvey, interview with the writer, January 27, 1950.

Summary of Amendments, see Appendix "B"

that they could not collect money unless there was someone to do the collecting. Also a case worker was needed to interview putative fathers. In the course of the survey of 1927, the representatives of the Canadian Welfare Council reported that in many directions legislation in social welfare had gone ahead of the community's resources. Not only had the legislation outstripped effective official administration but also it had developed much faster than the community's understanding of its uses. This statement was certainly true of the Children of Unmarried Parents Act.

DEVELOPMENT OF COURT PROCEDURE

The development of the Family Court procedure for unmarried parents' cases is interesting, particularly with regard to the progress made by the Superintendent and her representatives in obtaining the confidence of the court. In 1932 the Superintendent decided, as an experiment, to be present in court when cases under the Children of Unmarried Parents Act were being heard. One day she was rewarded by being asked to give an opinion on a case. This continued once or twice, yet the magistrate did not seem ready to accept the presence of a social worker in court; however, when the Deputy Superintendent prepared to leave on one occasion, she was asked to remain. Since that time the presence of a social worker has been accepted and is usually required in the courtroom during the hearing of a case under the Children of Unmarried Parents Act.

At the end of 1933 another difficulty was overcome in connection with court procedure. The City of Vancouver refused to

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allow the city prosecutor to act when cases under the Children of Unmarried Parents Act were heard in court. Although the putative father, (the defendant) usually had private counsel, the mother was given no legal help or protection if she was unable to pay for the services of a lawyer. As a result the Superintendent was prosecuting the case and her Department was being criticized for not giving the unmarried mother the help necessary to protect her child. The Attorney-General's Department advised that the provision of counsel or prosecuting attorney for the mother or complainant was not the responsibility of the Child Welfare Department. The Superintendent explained that in Manitoba, Saskatchewan, and Ontario, the Provincial Departments of Welfare were already providing legal counsel in the administration of a similar Act, and with very satisfactory results; much larger sums of money had been collected than before this action on their part. After considerable correspondence between the Superintendent's Department and the City of Vancouver Section five of the Act was amended in 1934 to read:

"In case the mother resides and has for six months last past resided within a municipality, the solicitor or prosecuting officer of the municipality shall, upon the request of the Superintendent, render to the mother and to the Superintendent such legal assistance as may be necessary in respect of any action taken or to be taken in the interests of the mother and the child."9

DEVELOPMENT OF NEWER TRENDS

The memorandum written by the Superintendent in regard to the administration of the Children of Unmarried Parents Act expressed the older philosophy which focussed on the collection of as much maintenance as possible through court procedure as compared with the newer trend of

9Laura Holland, Memorandum re: Administration of the Maintenance of the Children of Unmarried Parents Act, December, 1933.
9Summary of Amendments, see Appendix "B".
collecting maintenance, if possible, through case work services. It has already been mentioned that one of the results commented on when legal counsel was provided for the unmarried mother was that much larger amounts were collected. In other words emphasis was on money for the protection of the child. The small amounts that putative fathers contribute even today are inadequate for the protection of the child, but casework services extended within the framework of the Act enable the putative father to contribute willingly. In 1935 the Superintendent encouraged every unmarried mother to engage legal advice when court action was warranted; otherwise, unmarried mothers were discouraged from going to court and advised to decide on the agreement allowed by the Act. The Superintendent believed, however, that agreements afforded the child less protection for the future and provided the man an easy way of escape. Experience today suggests that a man who is forced to pay will not contribute, and in all probability he will escape anyway. It is destructive to him to be brought back to court on a "shew cause" summons repeatedly; furthermore, this constant pursuing of the putative father is emotionally disturbing to the mother, and as a result must be upsetting to the child. Nevertheless the philosophy of the time was to give protection to the child by enforcing payments. The Superintendent stated that if it were possible to make agreements of the same force as a magistrate's order, the court could then garnishee wages on the basis of these agreements, or the court could take a man up on a "shew cause" action, or take other necessary legal action to enforce payments. Although the welfare of the child is certainly

10 Laura Holland, Memorandum re: Administration of the Maintenance of the Children of Unmarried Parents Act, September, 1934.
11 Ibid; November, 1935.
being considered, there is an element of punishment in this attitude which still continues in many places today. A garnishee order should be a last resort.

An example is the case of Betty, who hoped that eventually the putative father would marry her. Because of his youth, age 20 at the time of the case, his parents had forbidden him to marry the girl. He was making $100 a month and considered to be a reliable worker, but appeared to be irresponsible with regard to payments on the agreement. In 1940 a court order was made, and five months later a garnishee order was made against the putative father's wages. The worker decided that there should be court action as the man seemed in need of real discipline. In 1941 the worker thought that the putative father was purposely evading responsibility and that he should serve a jail term. Later that year he paid $225.00; and he also made large payments at intervals. Following a "shew cause" summons in 1945 he paid $180.00; again, after a letter in 1948 warning of further court action, he paid another $180.00, and apologized for his tardiness. Payments were up to date until March, 1949 when efforts had to be made to trace his whereabouts. The child in question is being cared for by Betty and her parents. The grandparents are receiving Social Allowance so that their income is definitely limited, but the child is receiving good care. The worker stated that through continued contact with the putative father, they had managed literally to "extract" maintenance.

It is to be noted that the putative father in this case was only twenty years of age when the agreement was signed. He was considered to be a "responsible worker" which is probably in his favour. The destructive aspect of a garnishee order against his wages
can readily be seen. He might have lost his job and wandered from one odd job to another before obtaining permanent employment again. Maintenance was obtained in this case, but was it good social work? The young man probably paid because he feared the results, even a prison term. This is not respecting the unmarried father as an individual. However, if the worker had had continued contact with him in regard to maintenance, she might have been able to discuss with him the reasons for his apparent irresponsibility in contributing to the support of the child.

Today, court action under the Children of Unmarried Parents Act is taken at the mother's request if, with the help of the social worker, she cannot visualize any other plan. Bringing the putative father back to court on a "shew cause" summons is done now only with the idea that "we might get something". Sometimes there is value in this contact with the unmarried father. The social worker has an opportunity of furthering her relationship with him, and exploring his problems while she is discussing his responsibility for the child.

The Superintendent further stated in her memorandum that there are two methods of obtaining payments from the putative father. If the man is cooperative the department draws up an agreement. If towards the end of one year the man still refuses to make payments, it is the policy of the Department to safeguard the interests of the mother and the child by having the matter then taken to court; and if this is done, obtaining an affiliation / on the basis of the man's admission in the agreement that he is the father of the child.  

12 Loc cit.
An order has more force and legal weight behind it than an agreement and supposedly there is no element of punishment in court proceedings. It is not certain how the child is being safeguarded by a court order. There is a chance of obtaining small payments, and certainly an opportunity is afforded the case worker to help the putative father. The effort in obtaining witnesses for the mother, the emotional involvement for the mother, the bringing to memory of all that is past, are not in the interests of the child. The question remains: how are the interests of the child to be protected? With an agreement there is an admission of paternity, which is important and desirable for the child's later information. Voluntary signing of agreements and voluntary payments under an agreement allow for a better feeling among all three parties concerned, -- the mother, the putative father, and the child. If the putative father does not pay, he must have problems; but if a relationship has been established with a case worker hopefully these problems may be discussed with him. If the putative father's contributions are small -- and in reality they usually are small -- the mother receives Social Allowance or she earns a living, making arrangements for the child's care during the day-time, or sometimes boarding the child. Are these children being given adequate protection? It may be that working towards relinquishment of the baby is more vital than is suspected. There are cases, of course where the mother marries later and she and the step-father adopt the child. This plan is constructive, if the mother is not
marrying merely to "give the child a name". For unmarried mothers who keep their children, continued case work after the babies are born is absolutely necessary.

The fundamental attitude of the Children of Unmarried Parents Act is the protection of the economic and social interests of the child, and through the years this philosophy has been put into practice. During the last two or three years emphasis has been placed on the emotional development of the child, and the emotional capacity of the unmarried parents, and whether these ideas can be incorporated within the framework of the present legislation. There is no purely punitive clause in the legislation. It is suggested that a clause providing for detention of a putative father on bond as well as through warrant might prove effective, besides being less objectionable from the point of view of the social adjustment of the case than arrest. Putative fathers should not be put in prison. This is not affording protection to the child, but is making the mother steadily more vindictive and punishing in her attitude rather than helping her to adjust to her situation in order to care for the child. Consideration should be given not only to the putative father and his employment but also to his family. He may have a wife and children of his own. Legally, the magistrate must take some steps against the putative father when there is already an order against this man. Except through fear, the putative father is not going to accept his responsibility more readily, nor is he going to awaken to a better feeling toward the child and the unmarried mother. For these reasons agreements are clearly preferable;  

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court orders should be a last resort.

PURPOSE OF THE ACT

The B. C. Act provides for proper maintenance for the child until sixteen years of age by either or both parents. The Ontario Act provides for proper maintenance for the child until sixteen years of age by either or both parents, "circumstances and prospective means to be taken into consideration."\(^{14}\) This last phrase is important and the Ontario Department of Welfare lives up to this arrangement. If the putative father has a wife and family, he may or may not pay maintenance, and everything is done to preserve his natural home and family. In B. C. the same procedure has been adopted, with a careful exploration being made in each case of the putative father's circumstances. It is suggested that this statement should be incorporated into the British Columbia Act. This would clarify the procedure for the magistrates and lawyers, and would assist social workers who are not experienced or accustomed to interviewing putative fathers or going to court and deciding on amounts of agreements and affiliation orders.

The British Columbia Welfare Survey of 1927 recommended discretionary powers for the magistrate "to make such orders in respect to the care and custody of the child as he may deem just."\(^{15}\) The judge is empowered by section ten of the Act to fix standards of maintenance according to his findings of unmarried parents' social and financial background.\(^{16}\) Today when the putative father is proved guilty, the magistrate adjourns the case to the social worker, who later makes


\(^{16}\) Children of Unmarried Parents Act, Section 10, See Appendix "A".
recommendations for the amount of the order based on the putative father's ability to pay, both emotionally and financially. In the manual provided as a guide to public agencies in British Columbia, it is suggested that the amount of maintenance should depend on the putative father's ability to pay, and that responsibility to the putative father's legitimate family should be given primary consideration.\(^\text{17}\)

It is to be noted that in the Alberta and Saskatchewan Acts provision is made for acceptance of maintenance from all possible fathers concerned -- that is, a dual paternity clause.\(^\text{18}\) This may provide economic support for the child; but the important thing even before maintenance, is the establishment of paternity. How can accepting maintenance from several fathers make for a constructive plan for the mother, the child and the putative father? It may be desirable, whether there is to be maintenance or not, to have paternity determined so that the child may have accurate knowledge of his forbears.\(^\text{19}\)

"The social significance of the provision of admission of paternity is in itself important to all persons concerned, the child, his mother and his father."\(^\text{20}\)

However, it will always have to be decided on an individual basis. An example is the case of John who is unemployed. He has not admitted paternity because he would really like to dismiss all responsibility. However he does admit intercourse, and his and Anne's (the unmarried mother) stories of their relationships are identical. It was


\(^{18}\) Legislation of Canada and her Provinces, p. 16 and 20.

\(^{19}\) H.M. Bartlett, Medical Social Work with the Unmarried Mother, The Child, Volume 2, No. 11, May, 1938, p.237.

\(^{20}\) A. M. Donahue, Children of Illegitimate Birth whose mothers have kept their Custody, U.S. Children's Bureau, No.190, 1928, p.24.
a short casual relationship. The girl was undecided in regard to court action. She and the worker have discussed the emotional involvement of the court procedure and Anne is still expressing some fear in this connection. In a later interview the unmarried mother decided that she was able to make plans for herself and baby and later she hoped to marry, therefore, she did not want court action. The worker had a good relationship with both Anne and John but was undecided whether to obtain an admission of paternity. In an emergency the mother may go to court on this basis, and under the Act it is her right, but the worker did not think that the putative father would ever pay willingly. If an admission of paternity was obtained, John should know that the girl may lay information in court at any time within the next year.

The purpose of the Act is to provide maintenance for children born out of wedlock, aside from public funds, either by mutual agreement between the mother, the putative father and the Superintendent, or by affiliation order through establishment of paternity in court. If an agreement cannot be arrived at, the mother may lay a complaint before a magistrate and bring corroborative evidence to prove paternity. Provision is made for enforcement of any such action. This function is carried out by the Superintendent, but in the light of the present day philosophy of considering the putative father as an individual with problems, also considering his ability to pay both financially and emotionally.

Protection by the Superintendent of Child Welfare to children born out of wedlock and protection to unmarried mothers for the care of their children is afforded by two sections, one of these sections is

"Protection", as implied in the Act and as mentioned hereafter in this thesis, not only means obtaining support from putative fathers, but also case work in order that social workers may insure that children born out of wedlock receive adequate care.
as follows:

"It shall be the duty of the Superintendent by inquiry through children's aid societies and otherwise to obtain all information possible with respect to every child born out of wedlock, and the Superintendent shall take such proceedings and do all such things as are permitted or required under this Act as may seem to him advisable in the interest of the child."

the other:

"Every woman who is a mother within the meaning of section 2 may apply to the Superintendent for advice and protection in any matter connected with her child or with the birth of her child, and the Superintendent shall take such action as may seem to him advisable in the interests of the mother and child."

This does not necessarily mean maintenance, but it does mean case work in order to develop the best plan for the mother, the child and the putative father. The Children of Unmarried Parents Act, like all legislation, is enabling legislation; it is good administration for the Superintendent to use her discretion in developing the best plans for obtaining maintenance collections from putative fathers.

"Sensitiveness to the whole human situation of the father, the mother, and the child in relation to their social and physical environment will keep the program flexible."

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21 Children of Unmarried Parents Act, Section 4, see Appendix "A".
22 Children of Unmarried Parents Act, Section 5, see Appendix "A".
23 Bartlett, loc cit.
CHAPTER II.

THE ADMINISTRATION OF MAINTENANCE COLLECTIONS IN B.C.

The Children of Unmarried Parents Act in British Columbia is administered under the Social Welfare Branch of the Department of Health and Welfare by the Superintendent of Child Welfare. All maintenance collections are centralized in the Child Welfare Division in Vancouver, all collections being remitted to the Superintendent of Child Welfare and disbursed according to arrangements made under each agreement and order.

For the purpose of administering the Act in the Child Welfare Division provision is made on the staff for a social worker, a bookkeeper and a stenographer. The worker supervises all maintenance collections from putative fathers contracted under agreements and orders in British Columbia. For example, if payments are irregular, the worker will interview the putative father in order to discuss with him the reason for the arrears. When the unmarried mother desires court action under the Act, the worker arranges for court proceedings for the purpose of obtaining an order from the putative father. The Magistrate of the Family Court, after hearing the evidence, usually adjourns the case in order to give the worker an opportunity to explore the circumstances of the unmarried father, and later in court to make recommendations for maintenance. This entails case work with the putative father in order to understand any problem he may have, and to assess his willingness and ability to contribute to the support of his child. If the unmarried father obtains the services of a lawyer, then contact is maintained with him.

through his lawyer until the order has been made.

ADMINISTRATION AND CASE WORK IN THE B. C. DISTRICTS

The district social workers in the five regions in British Columbia represent the Superintendent in administering the Act. When they are notified of unmarried mothers or children born out of wedlock, the workers offer the services of the Act to the unmarried mother and her child. If the mother requests that the putative father be approached for the purpose of maintenance, the worker interviews him regarding responsibility to his child. If the putative father shows unwillingness to contribute to the support of the child, the mother may decide to obtain an order against him in court. The mother may register her complaint under the Children of Unmarried Parents Act, and the Superintendent will be advised by the mother or person acting on her behalf that this has been done. The mother will be assisted to assemble evidence by the district worker who should be present at the hearing.

District workers are handicapped in many ways in their handling of cases under the Children of Unmarried Parents Act. If an unmarried mother desires court action, the district workers find themselves inexperienced in court procedure because they handle only one or two court orders a year, whereas the worker in the Child Welfare Division in Vancouver is present in court once every week. Therefore she is familiar with court procedure, and is reasonably confident of her recommendations being accepted by the Magistrate of the Family Court. In the district, the case is called in Police Court where the chief of police for the district, who acts as the
prosecutor, is probably not too familiar with the Children of Unmarried Parents Act, and depends on the district representative of the Superintendent for preparing the brief. The following case is an illustration of the difficulties which surround social workers when they are inexperienced in handling court cases.

As the unmarried mother had decided to lay information in court, the district social worker advised CWD of the contents of the case and asked for procedure. The worker in CWD advised the district worker in regard to court procedure and also wrote to the municipal clerk in the district:

"We have been advised by our worker that the putative father has engaged counsel. As provided for in Section 5 of the Act, I would request that your municipality provide legal counsel for the mother."

Another letter was received in CWD from the district worker inquiring if the chief of police acts as prosecutor when the mother has laid information in court. The district worker received the following reply:

"At the time you arrange for the mother to lay information, we presume that you will discuss the case with the prosecutor, the chief of police, or better still we would suggest that you would provide him with a summary of the situation in writing."

In the district, case loads are often too large to permit extensive time and care being given to an unmarried couple. It is important that an unmarried mother should receive skilled help and time. She may come to the Social Welfare Branch, in the first instance, only desiring assistance in making confinement arrangements, but when she becomes known to a social worker the unmarried mother will discuss her plans for the baby, and request help with the important decision that
she must make in regard to the child. She may have guilt feelings, or a punitive attitude to the putative father, or she may be immature and unstable. In any case she needs assistance in expressing her feelings, and support and reassurance in her decision for the child both before the baby is born and afterwards. The unmarried father frequently has similar emotional problems to those of the mother, therefore, he also needs to discuss his attitudes and present circumstances in relation to the mother and the child. Unfortunately, emphasis is too often placed on the support aspect only, and every effort is made to have the putative father admit paternity and sign an agreement. This does not imply that district workers put pressure on putative fathers, but the fact remains that an admission of paternity, and a statement accepting maintenance responsibilities has become more of an automatic process involving signatures on required forms rather than a case work process. The unmarried father is an individual for whom case work is just as important and necessary as it is for an unmarried mother.

An example, the case of Mary will serve to illustrate a typical situation. Mary is eighteen years of age, an immature girl who comes from a home of only fair environment. She has never been employed and does not wish to work as she is still hoping the putative father will marry her, although at present he shows no inclination in this direction. Mary expressed a desire to keep the baby which should be born in three month’s time. She has stated that she will take it home to her mother, even though her mother is not taking part in the planning because she says it is Mary who will be responsible. Mary’s information was that she had told the putative father of her pregnancy,
and he had written her a letter promising assistance. The putative father is aged twenty-three and drives a truck for his father who is a well-known merchant in the district. He denied paternity when interviewed by the worker but was frightened when the worker mentioned the letter, later he obtained the services of a lawyer. He admitted to the lawyer having written the letter but said that he could not remember the contents. The lawyer interviewed the worker, stating that the putative father had suggested a settlement of $1,000.00. The worker judges that it will be difficult to obtain monthly payments from the putative father even if an agreement is signed, also the mother will not agree to court action. Therefore the worker suggests that CWD should accept the settlement.

Such a case raises several questions. In the first place, the Superintendent will not approve a settlement until after the birth of the child. Secondly, it may well be wondered whether a young unstable girl who has never held a job should keep the baby at home where there is apparently a poor environment. What plans is she able to make for the future of her child, and how far will $1,000.00 stretch in keeping both the mother and child? Thirdly, there is little information about the unmarried father and his problems. Such a settlement may work a considerable hardship on a young man, aged twenty-three, (or in this case is the father paying the settlement for him?). The worker in the district hopes that when the settlement is approved that it will be easier to work with the unmarried mother. At present she feels that the unmarried mother is only approachable in terms of dollars and cents. A thousand dollars seems a large amount to a girl
who has never earned money, yet, moreover, if it is accepted all relationship is terminated between the mother and the putative father, who possibly might consider marriage to be a better plan after the baby is born. The worker in the Child Welfare Division is aware of these facts but although district workers cooperate willingly in administration of maintenance collections, they are not always so willing to accept suggestions on the case work which might be done for the unmarried mother and father.

The following case illustrates the kind of advice that the social worker in CWD attempts to give to the workers in the district. George, recently discharged from the Navy, was a heavy drinker and had not held a steady job. He consistently denied paternity and said he would sooner go to jail than be taken to court. He was not interested in giving adoption history as he thought it would be a joke for him to be called the father when there were other men involved. The following reply to the district worker's letter is interesting because it particularly emphasizes not only the mother's situation but also the putative father's emotional conflicts:

"We hope you can arrange to see the putative father without court action. It is better from a social view-point that the matter be arranged out of court. The putative father requires help. Court action may be a constructive thing for him if you remember his own needs when you see him before and after arranging court proceedings. It is necessary to base your recommendations to court on the putative father's income and on the mother's requirements. Much work will have to be done to even obtain five dollars a week. If you can help him with his problems he will be better able to make payments".

In October, 1946, the Child Welfare Division, like other divisions of the Social Welfare Branch, was decentralized so that a large degree of administrative responsibility was given to district
offices. Responsibility for actual cases and supervision of workers was
decentralized to districts, but the authority and responsibility for
disbursing collections under the Children of Unmarried Parents' Act re­
mained centralized in the Divisional office which, as stated by the
Superintendent of Child Welfare in her annual report dated March, 1947:

"provides a safeguard to our legislative obligation and standards
of work, and should strengthen the relationship between case
work supervisors and workers with Divisional office."

At one time a social worker in the Child Welfare Division
interviewed all unmarried parents in Vancouver. This was an involved
arrangement because, should the mother wish her baby placed for adoption
or in a foster home, the case had to be referred to a Children's Aid
Society. It was found to be more constructive for case work purposes
for the Children's Aid Societies and Family Welfare Bureaux to carry
the case entirely, unless the father obtained the services of a lawyer,
then the worker in CWD maintained contact with him through his lawyer.
In 1946 the Division formulated a policy with these agencies whereby
their workers interview the putative father when the unmarried mother
is already known to them. This arrangement has proven to be extremely
satisfactory for all concerned because it prevents a duplication of
services and it decreases the confusion in the client's mind by elimin­
ating referrals to other agencies. This is also in line with the
thinking of Maud Morlock, one of the representatives of the United
States Children's Bureau:

"Child-welfare workers are interested in maintaining family
ties whenever that seems advisable. They want the mother
and father to have every opportunity to think through their
relationship to each other and to the baby. In no wise does
this involve the idea of a forced marriage. It perhaps involves more of a watchful waiting, of permitting the two individuals to work out their own solution insofar as that is possible, the case worker assisting them to think through the relationship when the opportune moment arrives.**

INTER-AGENCY RELATIONSHIPS

If a worker in the Children's Aid Society or Family Welfare Bureau has an agreement signed with the unmarried parents, she refers to Child Welfare Division to ask for completion of the agreement by the Superintendent. Remittances are then made to the Superintendent. If the unmarried mother desires an order to be made against the father, the worker refers to the Division for direction. The worker from the Division represents the Superintendent in court and interviews the mother and putative father and witnesses just before the case is heard. The worker from the other agency, who already has established a relationship with the unmarried parents, should be present in the court-room, as it is often a traumatic experience for the unmarried mother to give her evidence.

Jane, who was a client of Children's Aid Society, desired court action. The evidence and a summary of the case for the Magistrate was prepared by the Children's Aid Worker and the worker from the Division. The putative father had obtained the services of a lawyer. After the Magistrate judged the man to be the putative father he adjourned the case to the worker in Child Welfare Division for further recommendations. The lawyer was unwilling at first but consented later to his client coming to the Division. The unmarried

father was a high school student, two or three years younger than the unmarried mother. His family, who experienced some difficulty financially, were not wealthy as reported by the girl who said that they had "plenty of money", "a lovely home," and "had given their son a Packard for his birthday." The putative father's mother who came to the office with her son said that Jane had come to their home many times and that she cannot understand her statements. The unmarried mother's parents are comfortably established. At the present time it is impossible to recommend an amount for the order. The putative father is young and deeply concerned over his problem and his parents are not in a position to accept responsibility. For a year or two years until the boy has completed school and is employed, the best plan appears for the unmarried mother's parents to accept responsibility for the child.

When an agreement or an order is obtained, the other agencies often tend to close their cases on the theory that as maintenance collections are made through Child Welfare Division, the Division is now responsible. Agreements and orders may lapse, and a mother who keeps her child frequently needs supportive help for herself, and assistance in planning for her child. For example such questions arise as: who should look after her child while the unmarried mother is employed part-time or full-time? Is this mother one who should receive Social Allowance in order to care for her child, or is she capable of earning sufficient wages to support herself and her child? Every child born out of wedlock is in a sense a neglected child, therefore, an unmarried mother who keeps her baby should have a worker
available with whom she may discuss her plans. Is this then a responsibility of the Child Welfare Division or should the other agencies keep their cases active? In certain instances following the signing of an agreement or an order, a follow-through job has been done by the private agencies and this has proved to be good social work.

The Family Welfare and the Children's Aid Society of Greater Victoria follow the same pattern of inter-agency relationship as do the Children's Aid Societies and Family Welfare Bureau in Vancouver.

In spite of the fact that many workers in the private agencies claim that they do not see many unmarried fathers because the majority of them go to lawyers, the results of this inter-agency relationship have been highly satisfactory. In the fiscal year 1948-1949 there were 1,320 children born out of wedlock. The Provincial Social Welfare Branches received approximately seven hundred new referrals during the year, and the agencies, other than the Social Welfare Branches, approximately four hundred new cases. The remaining two hundred are accounted for by unmarried mothers who do not wish to accept service under the Children of Unmarried Parents Act, and a few private placements and private agreements still continue today. A certain number of cases are referred from the Family Court. Notice that the mother's case is to be presented in court may be the first notification the Division receives regarding an unmarried mother.

All children born out of wedlock are registered in the Department of Vital Statistics from information obtained from the hospitals. The Department of Vital Statistics notifies the Superintendent of Child Welfare of all illegitimate births.
In this connection Maud Morlock suggests that there is as yet no unanimity of opinion as to whether the early interview with the alleged father should be held by the case worker or by a lawyer. Some lawyers welcome all the skill that the case worker has to contribute and are enthusiastic about the assistance that they have received. There are others, however, who take the view that the social worker has over-stepped her bounds when she approaches the man, or when she sees him without a lawyer's permission. 6

The Vancouver situation is that the Magistrate of the Family Court willingly accepts recommendations based on the worker's exploration of the unmarried father's ability to support. He weighs the evidence presented in order to decide if the man is the putative father, but once the decision is made, he leans heavily on the worker for recommendations for the amount of the order. The worker does not have any contact with putative fathers who go to lawyers until such time as the lawyer makes suggestions to the Division, or the putative father himself comes to see the worker.

An example is Henry, aged twenty-one, who felt that he was too young for marriage. He was working steadily but helping to support his family as his father was on compensation. The evidence for going to court was slight. Conception occurred when the unmarried mother stayed with Henry in a cabin with two other lads. The worker was surprised that the judge proved this young man to be the father. He denied paternity and seemed bitter in his attitude toward the mother.

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Henry wanted to pay what was legally required of him in order to forget the whole situation as soon as possible. Following the hearing, the putative father's lawyer stated that he would see that Henry paid maintenance to the Superintendent. The putative father, who had been anxious to keep the matter out of court, had hoped that a settlement would have been arranged but the mother would not agree. Following a discussion with the mother, the putative father, the Magistrate, and the worker, an order was made for the mother's maintenance previous to confinement. The Magistrate advised the girl that she was at liberty to apply to the court for a maintenance order following the baby's birth. Instead of returning to court, Henry signed an agreement for $20.00 a month. The worker thought that he was a lad who would pay regularly but could not be forced to pay something that he was not able and willing to do. He still expressed some doubt concerning paternity. Henry appeared to be sincere and anxious to fulfill his obligation, and gave every indication of keeping up his payments which has been the case since the agreement was signed. This is a case where cooperation between the judge and the worker, and the lawyer, resulted in a relationship being established later between the putative father and the worker, and also resulted in a satisfactory plan for maintenance being worked out with the putative father.

CHILD WELFARE DIVISION AND CITY SOCIAL SERVICE DEPARTMENT

The relationship between City Social Service Department and Child Welfare Division is somewhat different from that of the other agencies and the Division. An unmarried mother may receive Social
Allowance prior to confinement, also following the birth of the child until she is able to obtain employment. In certain instances the unmarried mother may receive Social Allowance to support herself and the child at home. If an unmarried mother applies for Social Allowance, the City Social Service Department refers the case, with the mother's permission, to the Division for action that is indicated under the Children of Unmarried Parents Act. In this way the worker at Child Welfare Division has considerable contact with the unmarried mother, who tends to identify with her in making plans for the future of herself and the child. When the worker interviews both the unmarried parents in Divisional office she is in a position to give assistance and support to the unmarried couple both before and after the birth of their child, but if the mother continues to receive Social Allowance following the birth of the child, then the case is referred back to City Social Service Department. As collections are remitted to the Superintendent, the unmarried father maintains his relationship with the worker in Divisional office, but the unmarried mother has to begin another relationship with a new worker, unless, of course, she has been in receipt of Social Allowance for some time previously and is familiar with a worker at CSSD. This not only involves a duplication of services but also is confusing and disturbing to the client. In many cases the unmarried mother is unemployable because she is immature and unstable, or she may be caring for more than one child born out of wedlock. For these reasons she is in need of a great deal of supportive help in order to budget her Social Allowance and maintenance from the unmarried father, and to assist her in making plans for
her child.

An example is the case of Jean, aged twenty-three. Jean was divorced, then had one child born out of wedlock who was with her. Later, she lived in common-law-relationship for one year with the present unmarried father who was a Catholic and aged twenty. Jean, a protestant, started taking instruction in the Catholic church in order to marry this lad. After she became pregnant, the putative father left her, and shortly after became engaged to another girl who also began instructions in the same Catholic church. The unmarried father and this other girl were married the same day that the case was to be presented in court. The worker had interviewed the putative father, and the priest had talked with him, but the young man was not willing to accept his responsibility and was determined to be married. Jean's baby was born two days following the court proceeding. She was receiving Social Allowance for herself and the two children, therefore, her case was referred to City Social Service Department. Jean persistently telephoned the worker in the Division, with whom she had a good relationship, and informed her of the difficulties she was having in caring for the two children. Jean wondered if she should place the second child for adoption and not be concerned with trying to obtain maintenance. The girl was in an upset nervous state because she had realized the day of the court session that the unmarried father was no longer interested in her, furthermore he had been married in the Catholic church. She impressed the worker as being cheerful and intelligent and capable of giving her children good care, but at that time was clearly in need of support and someone with whom she could discuss her difficulties.
Every time she telephoned, the worker in the Division suggested that she should talk with the worker at CSSD. As the case was referred to a worker in CSSD so that Jean might receive Social Allowance, it would be that worker's responsibility to help the unmarried mother with her needs. This is difficult for a client to understand, especially when she is emotionally upset. It is not good social work when the client does not know which worker or even which agency is responsible for her when she requires help.

**SUMMARY**

At the present time at the Child Welfare Division emphasis is placed on the conflicts of the unmarried father when he is faced with the responsibility of meeting his obligations during the time when he is making payments. Case work with unmarried fathers is a long neglected subject and very little is found in Child Welfare Division records or any other agency records. At present, in the Division, there appears a fairly close identification with unmarried fathers, but there is certainly a close identification with unmarried mothers in Children's Aid Societies and Family Welfare Bureaux with only a slowly increasing thought being given to the circumstances and emotional problems of the unmarried father.

There is not only a need for more personnel in the districts in order to lighten case loads, but also a need for trained personnel who will give attention to planning with both the unmarried parents for the future of themselves and of their child. The inter-agency relationship between the Children's Aid Societies and Family Welfare Bureaux is worthwhile and very satisfactory, but there is need for a
more clearly defined picture of their functions, particularly so that an unmarried mother knows which worker she should contact when she needs help. The relationship between Child Welfare Division and City Social Service Department is confusing to everyone. At the present time, in order to eliminate some of the confusion the workers of each department need to work in close cooperation so that each will be in a position to understand the development in her cases. Maintenance collections are centralized in the Division because of legislative obligations, and the opinion is that every child born out of wedlock needs and should have the protection of the Superintendent of Child Welfare as well as protection under the Children of Unmarried Parents Act. With a clearly defined administrative relationship, clients are free from confusion, and workers are able to establish a continuing relationship and use their case work skills in assisting unmarried parents with their problems and future plans for their child.
CHAPTER III

AFFILIATION ORDERS

Maintenance collections are the amounts of money collected from the unmarried father under the Children of Unmarried Parents Act for the social and economic support of his child born out of wedlock. Maintenance may be provided by an affiliation order or by an agreement.

An affiliation order is a court order made by the Magistrates of the Family Court in Vancouver and the Police Courts in the other areas in British Columbia. The unmarried mother may decide to lay information in court because the putative father is unwilling to admit paternity or because he is unwilling to sign an agreement. He may not only be unwilling to admit paternity, but also he may think that the mother has been intimate with other men, therefore he is not certain that he is the father. If the matter is heard in court with corroborative evidence from witnesses,\(^1\) the unmarried father has an opportunity to present his story and evaluate the evidence on both sides. Some men "feel better", following court proceedings, about accepting the fact that they are guilty. There are some putative fathers, of course, who continue to deny paternity even after the Magistrate judges them guilty; and, in some cases it must be admitted the evidence is slight. Others, however, deny responsibility and are not willing to face the situation. When paternity is proved, the judge adjourns the case to the representative of the Superintendent of Child Welfare for recommendations as to the amount of the order.

This adjournment offers an excellent opportunity for the social worker\(^1\)Children of Unmarried Parents Act, Section 15, see Appendix "A".\)
to interview the putative father and to establish a relationship with him.

Unmarried fathers usually deny paternity at first because of fear and apprehension. Some continue to deny it in court, but it is interesting that when they are interviewed by the worker following court proceedings, they will frequently admit paternity. In this connection, Maud Morlock has written in a Children's Bureau Publication that work with the father offers constructive possibilities, provided he desires such service from a social agency. Even the fact that someone in the community has an interest in the mother and child may have its influence in making the father appreciate the full significance of the situation. Social agencies have found that some men are glad to have assistance in working out a solution in these difficult relationships. An atmosphere of fairness and objectivity and chance for the putative father to present his side of the story is essential. Frequently the man's first reaction is to deny responsibility, but this may change when he realizes that the social worker's attitude is one of understanding rather than of judgment. There must be a fundamental respect for him as an individual.\(^2\)

All this amounts to case work in an authoritative setting; but the very limitations of the authority set by the Act may give security to the putative father, who up to this time may have been repressing feelings of apprehension and guilt. An example of a typical situation is the case of Tom and Carol, who lived together

\(^2\)Maud Morlock, *The Fathers of Children Born out of Wedlock*, United States Children's Bureau, p. 3.
for three years and had two children. Tom later returned to his wife. Carol gave the elder child excellent care, but had not seen the younger child as she was trying to decide upon adoption. An order was made against the putative father but he was unemployed and therefore unable to pay. Some time was spent with him by the social worker in order to discuss his responsibilities to the mother and to the child. As the arrears had amounted to over $200.00, a "shew cause" summons was issued. A letter was written from the Child Welfare Division to the court which stated: "we would like an opportunity to talk with the putative father in regard to arrangements for him to see the children, in whom we understand he is greatly interested". Carol wanted him to return to her and was delaying a decision about the second child for this reason. She met Tom in a beer parlor and informed him that he could visit the children, then, changing her mind, she had him arrested and put in jail. The social worker from the Children's Aid Society suggested that the girl should board with the two children, and the agency would subsidize her earnings and the putative father's contributions, but the mother did not accept this plan. When Carol and Tom saw the younger child, who "was a beautiful baby", the girl informed the CAS worker that she and the putative father had decided to live together again. Naturally Tom had not agreed to this arrangement although Carol's use of the children to hold him made decisions difficult. This case illustrates the mother's emotional tie with the unmarried father and her corresponding lack of protection to the children, especially to the younger child. The suggestion of a boarding home was a good one and possibly the putative father might not have been pressed
too much for payments. Since he had returned to his wife, maybe he should have been allowed to pursue a reconciliation. The CWD worker tried to solve the difficulties with the putative father within the authoritative setting, by interviewing him in regard to his responsibilities, and by asking to see the putative father after the "shew cause" summons was issued and prior to the court session. This case also indicates a close relationship between the CAS worker and the CWD worker, who, at the same time, are each trying to follow the separate functions of their agencies.

It is essential for the social worker to have a good relationship with the representatives of the court and with the Magistrate. For example, if a lawyer advises CWD that a putative father is called to court because the mother has laid information, the worker is allowed by the court to interview him before the court session. If a CAS worker decides with the unmarried mother that information should be laid in court, the CWD worker is able to interview the putative father just prior to court. In both situations the CWD worker is making one last attempt to judge if the putative father might be willing to admit paternity and pay maintenance according to an agreement rather than by an order. For the same reason, if a putative father is being brought back to court on a "shew cause summons", the CWD worker will ask the Magistrate for permission to interview him before going into court.

The importance of the relationship between the worker and the Magistrate of the Family Court may be pointed up by another example.
It was arranged for the girl to lay information in court because Allen, the putative father, had refused to consider an interview in order to discuss maintenance for the child. The man was not available and as the child was approaching his first birthday, a message was left at Allen's home asking him to come to CWD for an interview if he desired to do so. The worker requested the Magistrate to delay service of a summons until advised of the outcome of the interview with the putative father. Allen had written letters to the mother containing evidence of paternity, and in the course of the interview, he agreed it was impossible for him to deny paternity. He was anxious to come to an agreement and a suitable arrangement for maintenance between him and the unmarried mother was planned. Endless harm might have occurred if the court had served a summons. For example, the unmarried father might have denied paternity in court, or he might have become vindictive toward the mother.

This case also points out the value of a relationship between the worker and the putative father. If the worker treats him as an individual and is interested in him, it helps him to express his reasons for admitting or denying paternity, which usually leads into a discussion of the putative father's emotional and financial ability to share responsibility in the support of the child. These interviews, prior to discussing maintenance, are of far more importance and protection to the child than if emphasis is immediately focussed on the money aspect. The putative father, as well as the mother, often has problems, and it is these very problems that are preventing him from accepting his responsibility.
There is difficulty for many unmarried fathers in the matter of paying maintenance, that is giving to the mother and to the child. Some people, because of their childhood development, are basically unable to give. Moreover, if there has not been a continuing relationship over a period of time with the unmarried mother, the putative father is often a shadowy casual person that the mother finds because she has a need for intimate relations. She is often looking for a father person. The girls who usually have not reached the oedipal period, often have hostile mothers. The girl desires to have a baby in order to punish her mother, by conceiving her father's baby. In these cases the putative father may be just anyone. Therefore, he will not have affection for the mother, and very likely he will not have any feeling for the baby. Dorothy Hutchinson remarked that in case work with unmarried mothers, it has been demonstrated that the experience of conception is frequently not a truly mutual one in which both the man and the woman give credit and honor to the other, but instead is a one-sided affair. The woman may want to feel that she has the child all by herself, thus the father is of little or no importance to her. It is understandable that unmarried fathers, who fall into this category, will not be really interested in paying maintenance to the mother for the care of the baby. On the other hand, there may be differences and similarities of fatherhood for the children of legitimate and illegitimate birth that should be considered. Fatherhood for the child born out of wedlock may be fatherhood in the biological sense only.

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Putative fathers, with or without affection for the mother and child, may pay maintenance if a constructive plan is worked out with them, for one thing an affiliation order for an amount that is compatible with his ability to pay. If he is unemployed, the making of an order should be postponed until he has a job. According to the Act, the Judge should make an order after he has proved the man to be the father. On the recommendation of the social worker, the Magistrate does adjourn cases when the putative father is unemployed, but the adjournment cannot stand indefinitely. If an order is made, however, the arrears begin mounting up immediately, and by the time the putative father is employed, he is overwhelmed by his debts and is attempting to escape from his responsibilities.

An example is the case of Ellen who had lived with Paul, the putative father, since before the birth of her first child in 1936, a second child was born three years later; she was recognized by both their families as being his wife although there had not been a legal ceremony. Ellen's information was that Paul had left her in order to marry another girl. She had begged him not to marry; his fiancee knew about his relationship with Ellen and about the children. When the putative father was interviewed, he informed the worker that he refused to sign an agreement until he had seen Ellen but she was vindictive, and indicated that she had no alternative but to take court action. Paul had readily admitted paternity. In court (1940) he stated that he was unemployed and that he had no prospect of work. The worker judged that anyone who could assume the responsibilities of

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5Children of Unmarried Parents Act, Section 9, see Appendix "A".
marriage could pay four dollars a week. In court, two months later, the putative was reprimanded for failure to find work, and later put in jail for failure to find a bond. His wife was two months pregnant and his mother-in-law had been supporting them. A year later the case was brought back to court again. The putative father, who was employed at this time, offered $20.00 on arrears and $32.00 per month maintenance. In 1949 he was only $100.00 in arrears. In this case the putative father was brought back to court several times, and also placed in prison for failure to find a bond. The Magistrate may ask for a bond as security if he has reason to believe that the putative father is unreliable. A putative father who is unemployed will not be able to produce a bond as security anymore than he will be able to pay maintenance. Continuing interviews with the putative father until he is able to pay, allow him to discuss his family problems and his plans for employment, rather than upsetting his legitimate home by various court measures. During the 1930's, an unmarried father came into CWD and was able to accept the fact that the Division's interest was a business one and to be treated as such. At that time and during the depression, it was believed to be a good idea to obtain an order in every case, because maybe later the putative father would obtain employment and be able to pay something on the order. Now it is believed that orders are destructive when there is not the ability to pay.

Among the unmarried fathers whose cases have come as far as

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6 Children of Unmarried Parents Act, Section 12, see Appendix "A".  
court action, many have conflicts and are in need of help more than those who admit paternity and sign agreements. If putative fathers can be helped to a sense of responsibility in this one instance, there may be a growth process taking place. Also, they may realize that this is not a proper way of fathering children. Some of these points relating to court order can be illustrated with cases.

In this case an affiliation order for $10.00 a month was made in 1933 against Bill, the putative father. He obtained a lawyer but became friendly and cooperative and willing to make payments through CWD. He paid regularly until the child's sixteenth birthday. Bill appeared to have little interest in the unmarried mother, but he did seem interested in the child. The mother, who received relief and rent money, as well as maintenance for the child from the putative father, gave the child good care. It is believed that the unmarried father paid regularly over the years because he was fond of the child.

In another case, Morris, the putative father, had decided to marry the girl, later he discovered that she had been going out with someone else. He was unwilling to sign an agreement, therefore an order for $30.00 a month was made in court in 1933. Morris married and for a time had difficulty making payments. The unmarried mother gave up hope of receiving anything from him, then she became so badly in need of financial help that she requested that the man be approached. He had one child by his marriage and could pay only $6.00 a month. However, he paid regularly until the child was sixteen years of age. The mother wrote letters constantly asking for an increase in payments. According to his circumstances the unmarried father could
not pay any more, and it would have been emotionally destructive to him and to his family to increase the payments beyond his ability to pay.

This is an example of a putative father, who had only seasonal employment; at the time the court order was made in 1935 he was just managing to keep off relief. It was, therefore, difficult to collect maintenance, and Norman was considering an appeal because there had been little evidence to prove him to be the father. In 1937 a "shew cause" summons was issued on the grounds that little effort was willingly being made by him. The Magistrate warned him either to pay $100.00 or serve a jail term. The case came up in court for the third time, Norman was warned of another "shew cause" summons. The unmarried mother continually wrote letters complaining and asking for payments. A letter, written to the Provincial Police, stated that if the putative father had no intention of paying, the order should be amended to include a bond and imprisonment. In 1942, Norman suggested a settlement, and remarked that if the mother refused he would request that the order be reduced (he was then paying $3.00 a week). He was advised by the worker that there was nothing in the Children of Unmarried Parents Act allowing for a settlement. Sometimes settlements were accepted if the putative father was leaving the Province and would not be able to remit further payments. By October, 1949, Norman was paying $4.00 a week regularly. He had paid $1594.75 up to this time and arrears amounted to $1,387.17. The CWD worker judged, at this time, that every effort should be made to obtain a settlement of approximately $500.00. In the meantime, the girl became a housekeeper for another
man; and under these circumstances the putative father did not feel justified in supporting the child. It is wondered how much damage was done to the child, and if the amounts collected justified the efforts of all concerned — approximately $9.00 a month over fourteen years. If a settlement had been accepted in 1942, it might have been advisable, but settlements were not encouraged at that time. This putative father did not want to make payments. There is no real way of knowing whether he did not want to accept the responsibility, or whether he felt that he was not the father. He seemed to need the help of a case worker, rather than the threats of a "shew cause" summons and imprisonment.

The case of Mr. and Mrs. B. illustrates a further point in relation to court orders. The young couple lived in common-law for ten years and had two children born in 1928 and 1929. The putative father provided a good home for his wife and children until 1935. He intimated that he was willing to marry the girl, but she considered this as an effort on his part to obtain authority over the children. The putative father obtained the services of a lawyer who drew up a private agreement allowing him access to the children. However, the mother still feared that Mr. B. and his family were attempting to take the children away from her. When the case was heard in court in 1935, the man was unemployed and court was adjourned. At a later date an order was made for $2.50 a week, and Mr. B. made payments regularly until the children were sixteen years of age. It is judged that this putative father had some warmth and affection for Mrs. B. and the children; moreover, he apparently was a man who could accept his res-
ponsibilities. It is to be noted in these cases that putative fathers, who have some affection for the unmarried mothers and subsequent fondness for the children, make an effort to support the children, but only according to their circumstances which is reasonable. In cases where the putative father has no feeling for the mother and consequently no feeling for the child, it is believed that the effort involved in obtaining maintenance is often not worthwhile.

Sometimes putative fathers get married before the court proceedings, although they are aware that the unmarried mother is pregnant and that the case is to be called in court. These men are taking on an added responsibility, which in many cases they are unable to accept either emotionally or financially. In this situation, a putative father may be shown that to his wife, at least, he should be responsible, and not allow another girl to suffer. The following case will serve to illustrate this point. The unmarried mother placed her child for adoption when she realized that the putative father was married in the Catholic church, and there was, thus a finality to her relationships with him. He was married only a few weeks before the birth of the child. The worker had interviewed the unmarried father once in relation to maintenance, and she saw him again after his marriage in order to obtain adoption information from him. The social worker was able to discuss with this young man, age 20 at the time of the case, some of the responsibilities of married life; there was some indication near the end of the interview that he might show more responsibility to his wife and help make a proper home for her.
Sometimes a putative father signs an agreement when the unmarried mother first desires maintenance, but for some reason he is unable to live up to the terms of that agreement. According to the Act, the mother may lay a complaint in court and the agreement is used as evidence of paternity. The case of an unmarried father who did not make payments on an agreement because of added family responsibilities will serve to illustrate a typical situation. Dick signed an agreement in 1938 and shortly afterwards he married. In the meantime, the girl had also married. Dick made many excuses: he had a wife and family responsibilities, also when the mother married he judged that he should be relieved of his obligation. The mother laid information in court, but the worker requested that a "shew cause" summons should not be served because the putative father might lose his job. An affiliation order was made in 1943. Over a period of time many letters were sent to him about maintenance for the child. The record indicated a willingness on the part of the putative father to make payments on the order, but his family responsibilities appeared too heavy. The worker decided that his circumstances were such that he should not be pressed for payments. In this case, court action did not afford further protection to the child. The putative father was unable to live up to the agreement because of his family responsibilities; for these reasons he was also unable to make payments according to the order. The worker apparently gained a good relationship with him because she realized his willingness to pay and also she was aware of

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8 Children of Unmarried Parents Act, Section 26, see Appendix "A".
the reasons why he could not do so. Some people will judge that when a putative father has incurred one responsibility he should not take on another such as a wife and a home, but an unmarried father has a right to his own life and he should be respected and treated as an individual.

It is not a mistake to assist a group of people, even though there is a philosophy that unmarried fathers should not be pursued for maintenance and possibly not even for case work. If there was no legal means of maintenance from putative fathers, more unmarried mothers might place their children for adoption. The unmarried mother might relinquish her baby more readily if there was no opportunity of maintenance, because she could not remain emotionally tied to the putative father by means of monthly payments. As all children born out of wedlock are in a sense neglected children, more adoptions, providing the child with parents, a home, and security, are good social work. Frequently children born out of wedlock, who remain with their mothers, move from one temporary foster home to another; and sometimes in adolescence they become delinquent, or they are made wards of the Children's Aid Societies and of the Superintendent of Child Welfare.

In British Columbia there is the Children of Unmarried Parents Act to which the Superintendent has a legislative obligation. In other provinces and in parts of the United States there are similar Acts, but the legislation is not administered in the same way as it is in British Columbia, and responsibility, therefore, is not felt as keenly. For example, in Washington State, no one person is responsible for the Act as the Superintendent is in B. C. If the unmarried mother, seeking help from Child Welfare Services, desires maintenance from the
putative father, court action is initiated by the court and the case becomes the responsibility of the court and not of Child Welfare Services. In Ontario, no effort is made to obtain maintenance from putative fathers who have legitimate families to support. It is good administration to keep abreast of the responsibility of the legislation, and therefore, it is necessary to have broad enabling legislation. Maybe the B. C. Act should be repealed, but unmarried mothers and their families are human beings. If the mother desires to punish the putative father, or to cling to him for emotional reasons, she may obtain the services of a lawyer who will take action against the putative father for her. For these reasons it is desirable to have the Children of Unmarried Parents Act, and also desirable for social workers to supervise court proceedings and court orders in cases where unmarried mothers choose this method of obtaining maintenance collections from putative fathers. The Act, itself, provides protection to all children born out of wedlock, and also offers protection to unmarried mothers, and ultimately to unmarried fathers.

Affiliation orders may be constructive if the amount of the order is within the putative father's financial and emotional capacity to pay. Court procedure is valuable only if more disturbed people (unmarried fathers) are given assistance with their problems through a relationship with a social worker.

Committees of several agencies in the United States were asked to study agency policies in regard to advising or encouraging unmarried mothers to take court action. Decisions were reached through
an understanding of the situation involving the welfare of the mother, the child and the alleged father — recognition being given not only to the economic need for the support of the child, but also to the fact that social and emotional factors should be considered. The committees in several cities reported that local agencies had found little permanent benefit to the mother or to the child from the establishment of paternity through court action and court orders for support, and that experience had proved that more desirable and lasting results were obtained through a case work approach to the father than through court action. The committees decided that, if the father does not voluntarily acknowledge paternity or agree to support the child, legal procedures are futile.\textsuperscript{9}

Court action should be considered as a last resort, not only because it is a sign of maladjustment in the social situation that putative fathers have to be called into court, but also because of the emotional strain that is involved for the unmarried mother. In many cases considerable effort is spent in preparing witnesses for the court session, in writing letters to the putative father for maintenance, and by the mother worrying and continually telephoning the social worker. And what is happening to the baby during this long period of anxiety? Hopefully with continuing case work unmarried fathers will admit paternity voluntarily, and, of their own accord, will sign an agreement for maintenance. Agreements, as a second method of maintenance collections, will be discussed in the next chapter.

\textsuperscript{9}Maud Morlock, \textit{Establishment of Paternity}, p.365.
CHAPTER IV

THOUGHTS ON AGREEMENTS

An "agreement" in this area of legislation means a three-party agreement between the Superintendent of Child Welfare, the unmarried mother, and the putative father, and occurs when the unmarried father has voluntarily signified his willingness to pay maintenance to the mother for the support of the child born out of wedlock. Provision is made for agreements in the Children of Unmarried Parents Act. A private agreement may be entered into between the mother and the putative father, but for the protection of the child it is desirable to have a three-way agreement with the Superintendent, who can insure payments being made regularly, or is able to explore the reasons for delinquent payments.

If the mother wishes to have maintenance for the child, the putative father is interviewed in order to discuss his responsibility. If he voluntarily admits paternity and is willing to assume some responsibility for the maintenance of the child, an agreement is discussed with him. Through an agreement, the social worker is able to develop a constructive plan for the child and for the rehabilitation of the mother, and also to consider the financial as well as emotional circumstances of the unmarried father. Although the Act states that maintenance will be according to a reasonable standard of living, it is to be expected that many putative fathers may not be able to contribute this amount monthly or weekly. His wife and children, his

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1 Children of Unmarried Parents Act, Section 26, See Appendix "A".

2 Ibid., Section 10.
family obligations, and his present earning capacity must all be considered before a decision is made on the amount of an agreement. It is emotionally destructive to the putative father to sign either an agreement or an affiliation order for an amount beyond his ability to pay. He will be unable to maintain regular payments which will cause anxiety in itself; besides, if he fails to live up to the agreement, the unmarried mother may lay a complaint in court. Moreover, instead of receiving a smaller regular payment, the mother receives either nothing for the child, or varying infrequent payments which are more frustrating to the mother than they are valuable. If the worker is able to consider these three people — the unmarried parents and the child as a family unit and discuss plans for support with them, it is not too difficult a matter to decide on an amount that the mother is certain of receiving regularly for her child, and an amount that is within the putative father's ability to pay. Experience suggests that putative fathers do not support their children, but the small amounts that they do contribute are a supplement to the mother's income.

Table No. 1 and Table No. 2 show the amounts that putative fathers pay either weekly or monthly and also the total amount that is contributed from the time the order is made until November, 1949. It is to be noted that because of irregular payments at various periods, the total amount is the sum actually paid by the putative father and not the amount that might have been paid, if payments had been regular up to November, 1949.
<table>
<thead>
<tr>
<th>Date of Agreement</th>
<th>Monthly or Weekly Payment</th>
<th>Total Amount paid as at Nov./49</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.11.40</td>
<td>$20 a month</td>
<td>1393.60</td>
</tr>
<tr>
<td>12.8.40</td>
<td>10 &quot; &quot;</td>
<td>1018.00</td>
</tr>
<tr>
<td>8.12.42</td>
<td>15 &quot; &quot;</td>
<td>1285.00</td>
</tr>
<tr>
<td>10.6.43</td>
<td>2 per week</td>
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</tr>
<tr>
<td>16.7.43</td>
<td>20 a month</td>
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</tr>
<tr>
<td>3.6.44</td>
<td>10 &quot; &quot;</td>
<td>650.00</td>
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<td>17.3.45</td>
<td>15 &quot; &quot;</td>
<td>543.50</td>
</tr>
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<tr>
<td>2.2.48</td>
<td>8 &quot; &quot;</td>
<td>168.00</td>
</tr>
<tr>
<td>28.10.48</td>
<td>25 &quot; &quot;</td>
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<table>
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<th>Date of Order</th>
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<th>Total Amount paid as at Nov./49</th>
</tr>
</thead>
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<tr>
<td>16.10.40</td>
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<td>7.1.42</td>
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<td>26.2.42</td>
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<td>4.50 &quot; &quot;</td>
<td>1597.00</td>
</tr>
<tr>
<td>2.4.42</td>
<td>3.50 &quot; &quot;</td>
<td>1045.50</td>
</tr>
<tr>
<td>30.3.43</td>
<td>3.50 &quot; &quot;</td>
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<td>20 a month</td>
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<td>10 &quot; &quot;</td>
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<td>11.2.46</td>
<td>7 per week</td>
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<td>10.7.48</td>
<td>4 &quot; &quot;</td>
<td>370.44</td>
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<tr>
<td>30.11.43</td>
<td>6 &quot; &quot;</td>
<td>513.95</td>
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</tr>
<tr>
<td>1.6.49</td>
<td>5 &quot; &quot;</td>
<td>173.60</td>
</tr>
</tbody>
</table>

**TABLE NO. 1**

**TABLE NO. 2**
There are several reasons why agreements may be considered a more desirable method of obtaining maintenance collections from unmarried fathers than affiliation orders. In most cases the putative father voluntarily admits paternity. He may come to the social worker's office with the mother to discuss the best possible plan for the child, and at this time, the worker is given an opportunity to talk with the unmarried parents as a family group. It is for this reason that the Children's Aid Societies and Family Welfare Bureaux interview the putative father when the unmarried mother is already known to them.

The case of Russell and Alice illustrates some points related to agreements. Russell voluntarily admitted paternity and made no attempt to evade his responsibility. When interviewed by the worker, he agreed to ask Alice to come to the office with him in order to complete the agreement forms. If agreements are drawn up in this way, it is the most satisfactory plan; also it leaves the mother with a more satisfied feeling while she is caring for the child. A year later, at the girl's request, Russell signed a second agreement increasing the monthly payments. The following year Alice wrote many letters to CWD asking about a further increase. Russell expressed his willingness to the worker to pay more maintenance, but his employment was only seasonal. He admitted the amount ($10.00 a month) that he paid was not adequate for a boy entering school. It was suggested to him that he think over the matter of an additional amount during the next month. The worker had a satisfactory relationship with the unmarried father so that he did not feel pressed when she discussed an increase with him, but could talk about his situation realistically.
The putative father, who decides on an agreement, is usually more willing to pay maintenance and to share responsibility because he may have some affection for the mother, as a result of their relationship over a period of time, or because he is certain that he is the father and he is willing to try and fulfill his obligation.

This case illustrates a somewhat punitive attitude that existed among social workers when maintenance was first collected under the Act. Bob signed an agreement, but owing to seasonal employment, and having to support a mother, sister, and brother, he found it impossible to make payments. The worker tried to impress on him the necessity of remitting payments, and the possibility of his going to jail if he did not do so. At a later date he was informed that his earnings for three months had permitted larger payments; also that he could care for his mother, but the child in question was more important than his brother and sister. The agreement lapsed and nothing further was heard of the putative father. It is wondered why he was supporting his brother and sister but this case was opened during the depression days. Although it is realized that no advantage is gained by sending a man to jail, putative fathers are still being put in prison today for failure to pay maintenance. A man's problems are not going to be solved by punitive measures, nor will the baby born out of wedlock receive any more protection.

Another example of an agreement is the case of Mr. W. who admitted paternity and signed an agreement for $27.50 a month for the first two years, and $20.00 a month thereafter. His wife was bitter at first, then she agreed to assist her husband. After nine
years a settlement of $1,500.00 was suggested, but the girl's parents, who were caring for the child were anxious for monthly payments. The putative father kept up his payments regularly over the years. A settlement would have helped this putative father, but apparently the agreement was also a satisfactory plan to him; moreover, he was aware of the fact that the money was needed for the child.

There are a few unmarried fathers who are attached to their children and have quite a deep feeling for them. These putative fathers willingly keep up payments on their agreements. Usually the unmarried parents have known each other for some time and there has been warmth and affection between them. The following case illustrates this point.

The putative father lived in a common-law relationship with the unmarried mother for nearly four years after the two children were born. He was deeply attached to the children, and although he had difficulty keeping up payments, he was willing to try. He paid $25.00 twice a month whenever possible; also he took out bonds which were to be used for the children at a later time. The mother married and she and her husband applied to adopt the baby.

Another illustration is the case of Bill and Kay who had known each other for seven years before the birth of the baby in 1935. Until 1939 the putative father made the mother financially independent. He sent her money regularly and kept closely in touch with the mother and the child. Kay applied to CWD because she feared that Bill was going to be married and maintenance would cease. He said that if the mother took court action he would refuse to contribute
as much maintenance as he was then paying. He was willing to sign an agreement but not for the amount that the mother was asking. The mother, the putative father, and the Superintendent accepted an agreement on the father's financial ability to pay. By 1948 he had a credit of $300.00 to his account and he was still paying willingly. If an agreement can be arranged, it frequently points to a better social situation and a more lasting situation than an affiliation order.

In actual amounts collected, more money is collected through agreements than orders, and agreements are in much better standing than orders. It is generally understandable that where people are more willing to pay, that support will be given more readily. The following is a statement of collectable accounts as at March 31, 1948.\footnote{Annual Report of the Social Welfare Branch of the Department of Health and Welfare for the year ended March 31st, 1948, p.88.}

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount Collectable</th>
<th>Amount Collected</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orders prior to April 1, 1947</td>
<td>$12,850.00</td>
<td>8,376.00</td>
</tr>
<tr>
<td>Agreements prior to April 1, 1947</td>
<td>$11,009.00</td>
<td>8,065.50</td>
</tr>
<tr>
<td>Agreements made during 1947-48</td>
<td>5,596.00</td>
<td>3,621.00</td>
</tr>
<tr>
<td>Agreements made during 1947-48</td>
<td>5,342.00</td>
<td>4,784.00</td>
</tr>
</tbody>
</table>

It is not a mistake to request maintenance from putative fathers if a constructive plan is made for the child, and for both the unmarried parents; an agreement provides a method of developing such a plan.
CHAPTER V

LONG-TERM MAINTENANCE COLLECTIONS

Maintenance collections from unmarried fathers, either under an order or an agreement according to the Act, are designed to be paid weekly until the child is sixteen years of age. In reality payments cease at any time in the course of the sixteen-year period for several reasons, some of which have been discussed previously: the unmarried mother may marry and she and her husband may adopt the child, the putative father may have too many family obligations, or he may become unemployed, sometimes the unmarried father is just unable to face responsibility and he disappears, or he may continue to deny paternity although he has been proved the father by the Magistrate. There are cases, however, where maintenance has been collected over a period of years, and it might be interesting to evaluate the maintenance collected during the time in order to decide if it has been a worthwhile process for the child and for the unmarried parents.

Jack and Mary lived together for several years and had four children born out of wedlock. Jack's information was that he had a wife and four children in Ontario, but felt his wife neglected their children and that his responsibility in Vancouver was greater; also his wife would not give him a divorce. In 1933, he signed an agreement to pay $27.50 every two weeks. Jack was concerned about the care that Mary gave the children; on one occasion he gave the worker $35.00 for Christmas gifts for the children with instructions that the money was

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1Children of Unmarried Parents Act, Section 9 (1b), see Appendix "A".
not to be given to the mother. Almost every month the putative father paid more than the agreement stated, but in 1939, he indicated that unless the mother allowed him to see the children, he would not pay any extra willingly. Mary allowed him to see the children one day in the office. In 1940 the agreement was reduced because the two older children were sixteen years of age and were employed. The unmarried mother was resentful of this reduction. She felt that she had to struggle while he enjoyed life. The putative father paid his account in full. Unfortunately, the second youngest child was committed to the Industrial School for a short period. Jack apparently had some affection for the mother and was fond of the children, but the mother remained vindictive toward him all the time.

In this case, Clare left her husband in order to live with George, the putative father, then she left George. The putative father seemed interested in the girl in a "lukewarm" way. He said that she was neglecting the child, but many of them do say this as an excuse for not accepting their responsibility. The worker suggested that he should take an interest in the child if he did not consider the mother to be dependable. Although George had only seasonal employment, he indicated that he fully intended to pay as he did not wish the child to suffer. He refused to sign an agreement because he had been supporting the child for seven years. He always provided the child with food and clothing and sent money to Clare besides. The City Social Service Department suggested that as the putative father was working he ought to be supporting the child; but George believed that there was no need for the mother to be receiving Social Assistance.
The mother refused to allow the putative father to see the child; however, the worker pointed out that it might be easier to approach him if she let him visit the child once a week. George eventually agreed to sign an agreement for $3.50 a week. Two months later, he refused further support, as he had reason to believe that the mother was neglecting the child and "holding drinking parties". He remarked that if the case came up in court he would deny everything; he had never been in court in his life. George appeared so afraid of court action that he signed a second agreement for $8.00 a month. The worker judged that the putative father had an interest in the child and if a close relationship was maintained with him, the money could be collected fairly well. The unmarried mother, in this case, was a difficult woman. She continually "hound ed" both her husband and the putative father for money. Sometimes the girl will "hound" the putative father for the rest of his life unless he pays maintenance. Clare neglected her child to such a degree that he was not attending school at age thirteen. George paid his account in full. He seemed fond of the child and probably would have continued supporting regularly if the boy had received good care. However, when a relationship was established with the worker, he was given sufficient understanding and support to enable him to make payments according to the agreement.

In another case Bert described his relationship with Nancy in a warm friendly manner. They had lived together for two years and had one child. Nancy, who was married and had three children, returned to her husband; later Bert married. The child was placed in a foster home where the financial insecurity was such that the foster
mother applied to the putative father for maintenance. The foster parents had hoped to adopt the child but were unable to do so financially. Bert could not understand the reason for the foster parents' inability to adopt the child; he remarked that he and his wife were willing to take the child into their own home, but when later he was faced with the real issue he refused to do so. As the foster mother could not manage financially, the child was committed to the care of the Superintendent. The putative father, at first, did not want an agreement that seemed binding; but later he signed the forms and fulfilled his obligation. As the child reached age sixteen, Bert expressed interest in her, although he realized that she knew nothing of his existence. He seemed concerned about her learning of his background and appeared ashamed of his action. The putative father continued his interest even after payments ceased. The girl married and had a child of her own before she was nineteen years of age.

Other points related to long-term maintenance collections are illustrated in the following cases: Betty and Dan lived in a common-law relationship for six years. Betty's information was that the putative father "had been drinking and told her to leave"; while Dan said that she had left him. An order was made against the man for $1.25 a week. He mentioned that he had delayed coming to see the worker before the order was made because he hoped to obtain custody of the child as he believed that the mother was neglecting her. However, according to the record, Betty married and made a good home for her child. Dan paid until the youngster's sixteenth birthday and indicated that he did not mind continuing to contribute to her support.
In cases such as this, where there apparently has been warmth and affection between the mother and the unmarried father, the child has meaning to the man; in sharing responsibility for the child's care he derives some satisfaction and is not paying only because he feels obligated to do so.

In this case Bill and Anne had only a short casual relationship. The baby was born in 1927; one year later a court order was made against Bill. In 1939 Anne married a man twenty-five years her senior. She regretted the marriage but felt it was a home, at least, for the child. Shortly after the marriage the putative father, who was making only spasmodic payments, desired to see both the mother and her child. Because of Anne's unhappiness it was judged that his wish should not be granted. It might be further upsetting to her marriage and subsequently disturbing to the child. Anne was employed as a waitress in a hotel earning fourteen dollars a week. The child, who lived with his mother and step-father, completed high school. By the time the boy reached age sixteen, the putative father was $1,500.00 in arrears; however, Anne believed that nothing would be gained by further efforts to collect. She had adjusted to her marriage and enjoyed a good relationship with her husband. To close the case seemed the best possible plan.

**MAINTENANCE FROM A PUTATIVE FATHER'S ESTATE**

The Children of Unmarried Parents Act provides that if the putative father is deceased, maintenance may be collected from his estate provided that his legitimate family is notified by the Magistrate that such action may be taken. An example is the case of Joen.

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2 Children of Unmarried Parents Act, Section 24, see Appendix "A".
who did not ask for maintenance, because Bob, the putative father, assured her that they would be married. When Joan was interviewed at the Child Welfare Division she was still uncertain about discussing maintenance. It was suggested that she should make up her mind before the putative father was approached, as the worker did not wish to break up the possibility of a happy marriage. The mother's information was that Bob had informed her that if she approached CWD he would leave the Province. In court, he denied paternity, also he was inclined to treat the matter as unimportant. About a year later he appealed but the decision of the Magistrate was upheld. Joan became very much disturbed over the idea of an appeal because she worried about going through the court procedure again. After the appeal, Bob not only paid regularly, but also paid all the arrears. In February, 1949, the unmarried father died; a cheque was received from his estate for the full amount payable on the order. This money was to be sent in monthly instalments to the mother, who had since married. Settlements are generally retained in trust with the Superintendent and remitted to the mother in monthly instalments as a protection to the child, also to insure that the money will be used for the care and maintenance of the child. Unfortunately the baby in this case suffered convulsions and was considered mentally deficient; however, he was looked after by Joan and her husband. This case raises several questions. In the first place, it is noted that the putative father denied paternity and appealed the decision before he accepted his responsibility. This may be a case where sharing responsibility for the care of the child is a growth process, in the sense that he was helped to accept some responsibility. Secondly, the
question was raised about the disturbing and emotional elements involved in court proceedings, particularly for this mother, who was anxious to marry the putative father, then heard him deny all relationships. When an unmarried mother desires court action, the court procedure should be carefully explained to her, especially the emotional involvement that it may entail. The mother and the worker should decide exactly what is expected to be gained from court action. Will it offer further protection to the child? Will maintenance really be collected according to the court order?

PUBLICITY

Sometimes putative fathers pay maintenance over a period of years because they are afraid of the harm that publicity might do to their legitimate families or to their employment. Frequently these unmarried fathers decide on agreements because they fear the possible publicity of court action. An example of a situation involving the man's family is that of David, a putative father, who was the unmarried mother's brother-in-law. His wife had left him, and the girl had been living with him at his home. She was a friend of the putative father's family. The worker felt that David should assume some responsibility, which could be done in such a way that his family need not be aware of the situation. An agreement was suggested as the best plan. The putative father gradually became more and more delinquent in payments, but some years later, the mother married and her husband did not press for payments for the child, who was a "lovely healthy boy". The putative father did not live up to the terms of the agreement, but the case illustrates that an agreement was a valuable method to use in
Another example illustrates the case of Archie, who feared publicity, but because he apparently felt some affection for the unmarried mother and an interest in the child, he was able to work through his fear with assistance from the worker and cooperation from the girl. The mother was separated from her husband and desired a divorce. Her information was that she and Archie were very much in love. The putative father indicated that he was willing to do anything required of him as long as he remained anonymous. The worker at CWD interviewed both the unmarried parents who agreed to a verbal agreement for $5.00 weekly. The mother remarked that she was anxious to cooperate with Archie and with CWD. Both the girl and the putative father contributed maintenance to the child who had been placed in a foster home. The most desirable way of handling unmarried parents' cases is pointed up by this situation. When the social worker interviews both the unmarried parents, and helps them together to make plans for the child, the process is emotionally satisfying to the mother, who in all probability will receive regular payments, also to the putative father who has expressed his willingness to fulfill certain obligations to the unmarried mother for the care of the child.

The case of Frank, who showed extreme fear of publicity, is an example of a typical situation. Apparently his job as a city employee warranted this fear. Frank believed that the unmarried mother kept the child to "spite" him and that she would point him out to the child on the street. The child received good care with the mother's parents; later he was placed in a foster home. The worker
suggested a settlement of $1200.00 because of the putative father's fear of publicity, and because he had a wife and two children. The settlement was refused by the mother, who believed that Frank would be consistent in his payments because of possible publicity. The foster parents received $18.00 a month from the unmarried father for the care of the child, but he paid only from a sense of fear which must have been emotionally disturbing to him and to his family.

The question of publicity arose strongly in the following case, and it is believed that the unmarried father had a real fear about it. Ken and Ruth only knew each other for three weeks. The man admitted asking the mother to marry him; however, he refused to sign an agreement on which there was a declaration of paternity. In 1933, he signed an agreement for $15.00 a month but payments were negligible. Ken refused to admit anything, and stated that he had made some payments in order to keep the situation quiet; otherwise he would lose his job. His lawyer judged that there was sufficient evidence to prove paternity, but if the case were taken to court, the putative father would lose his job and, therefore, his ability to pay. When the case was heard in court at a later date, the putative father sent a statement acknowledging paternity. He made payments irregularly for two years on the court order. He was interviewed repeatedly by the worker and the case was called back to court twice. Ken made excuses about "working for nothing"; he continually talked about not being responsible, and furthermore, that he should not have been "stuck for it". On one occasion the putative father suggested that he might like to see the child in question; his job was with children so that he was
obviously fond of youngsters. In 1937 Ken married; he continued paying but somewhat more regularly. He remarked that he did not wish to be relieved of his obligation; nevertheless, he was paying only with the greatest reluctance. In 1946, a settlement was suggested to him, although the worker doubted if he could manage to raise a sufficient amount. On the child’s sixteenth birthday, the arrears amounted to $212.00; the worker decided against making any further effort to collect. In the meantime, the unmarried mother had placed the child in a series of foster homes; later she married to give the child a home, but she left her husband because he was a "heavy drinker". Then she divided her time between Toronto and Vancouver; while the child remained in a Children’s Home. In this case settlement was the best plan, if it could have been arranged. The worker believed that this man was the real father, but what is the value of forcing payments. Since the mother did not give the child proper care, it would have been more satisfactory if the child had been adopted or remained permanently in a foster home. The writer suggested previously that if there was no provision for maintenance, more unmarried mothers might place their children for adoption. In this case, the girl might have relinquished her baby because there was only a casual relationship between the mother and the putative father. Affiliation orders of this type are definitely destructive to putative fathers; for this reason there is a need for some support for children born out of wedlock other than maintenance from putative fathers.
A SUBSIDY OR SUPPLEMENTAL FUND

Perhaps a government subsidy or a fund to supplement the mother's earnings is required. In 1944-5, in the State of Maine, the first appropriations were made for a supplemental fund providing support for unmarried mothers and their children. This is actually subsidizing illegitimacy and may be condoning the unmarried mother's action, although it is believed that such support would not increase the number of children born out of wedlock. It is acceptance of illegitimacy, however, and is our culture and public opinion ready for this step?

State support for children born out of wedlock is part of the law in Norway and Sweden. It is believed that these countries have accepted illegitimacy into their cultures because there is really a need for children. In other places such as Vienna or Italy, illegitimacy is supported but only among the lower classes, for example the bourgeoisie; thus, it is not a cultural acceptance but a separation of classes, and could be considered a depreciation of the lower classes.

In a sense in British Columbia there is maintenance for the unmarried mother and her child. The City Social Service Department and the Provincial Social Welfare Branches do grant Social Allowance to the unmarried mother so that she may stay home and care for her child. They expect that an adequate attempt will be made to obtain maintenance from the putative father, but do not, in practice, insist on court action, realizing that forcing maintenance from putative fathers

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does not bring results and is not good social work. The mother may receive Social Allowance amounting to $35.00 a month for herself and $15.00 a month for the child. If maintenance is being received from the father, it is deducted from the child’s $15.00; but if the maintenance is more than $15.00, the mother receives $35.00 for herself as well as the putative father’s contribution, which is not deductible from her $35.00 because maintenance collections from putative fathers are solely for the care of the child.

An example is the case of Hal, a putative father, who admitted paternity but was unwilling to sign an agreement. He was evasive and blamed the girl for the whole affair, also he gave the impression that he did not want to accept any responsibility. In 1946 an affiliation order was made for only $2.00 a week because he had irregular employment. Hal married a year later. In 1946 after a "shew cause" summons was served, he became discouraged and did not know how long he could make payments. In this case the worker stated in the record:

"The putative father and his wife seemed to understand that our interest was to secure adequate maintenance and neither indicated any desire to evade responsibility. The worker feels that they would be cooperative which does not mean we will be able to collect on the order. The CSSD worker realizes that no further action should be taken against the putative father as it is difficult for him to make payments."

The Saskatchewan Provincial Welfare Department amended its Mothers’ Allowance Act in order to grant assistance to the unmarried mother if she is making an adequate attempt to provide a home for her child.  

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In the United States, Aid to Dependent Children is granted to children born out of wedlock in exactly the same way as it is to legitimate children. Nevertheless, in some areas in the United States, ADC is not granted unless the unmarried mother presents her case in court. This is such an emotional and difficult situation for the mother that frequently she does not concern herself with court action.5

In theory, in British Columbia, court action is indicated before granting Social Allowance but CSSD have accepted the policy of considering the plan that is most constructive for the mother, the child, and the putative father. If the unmarried mother remains at home to care for two children, SA will be granted indefinitely, but if the mother is caring for only one child, she is expected, after a reasonable period, to make arrangements for the child so that she is free to obtain employment.

SUMMARY

If social workers consider putative fathers as individuals who have problems beyond the question of establishing paternity and collecting maintenance,6 then there will be cases where putative fathers are not able to pay maintenance at all; also there will be times during a sixteen-year period when they will be unable to pay regularly. The reasons for inability to pay,— unemployment, family obligations, or a belief that unmarried mothers are not giving their children proper care, — have all been discussed previously, but how are these children

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to be supported when maintenance collections from putative fathers are not available? Social Allowance ceases when the unmarried mother is employable, and frequently the mother is unable to earn a sufficient amount to support both herself and the child. When payments are irregular the mother finds it difficult to budget her income; also, because of her previous relationship with the putative father, she becomes emotionally disturbed which must be upsetting to the child. Case work with unmarried fathers helps many of them to overcome their conflicts and enables them to fulfill their obligations. When putative fathers deny paternity and are therefore reluctant to support the child, or they fear publicity, it is difficult to assist them to accept responsibilities which may be emotionally destructive to them, or prevent them from living a life of their own. Settlements, which will be considered in the next chapter, relieve the unmarried father of his obligation over a sixteen-year period, and may be a more socially acceptable way of supporting children born out of wedlock than a government subsidy or a supplemental fund.
CHAPTER VI

THE PROS AND CONS OF SETTLEMENTS

Settlements are actually a third method of maintenance collections from putative fathers. A settlement is an agreement between the unmarried mother, the unmarried father, and the Superintendent of Child Welfare, for a certain sum of money which may be paid according to the agreement, at the birth of the child or at any time in the course of the sixteen-year period when weekly or monthly payments are usually collected.

ADVANTAGES AND DISADVANTAGES OF SETTLEMENTS

In considering the advantages of a lump-sum settlement it is immediately thought to be an excellent idea. It prevents weekly or monthly payments for sixteen years; it prevents going back to court to revise orders, -- it provides a definite amount for the child, and the mother and the putative father are released to live their separate lives. Maybe settlements should be the only method of maintenance collections in order to overcome the conflicts involved in weekly and monthly payments. There are certain points to be considered before such a conclusion may be reached, although there is in British Columbia a definite trend toward settlements; careful consideration is being given to each case where a settlement seems feasible and advantageous to the mother and child and to the putative father.

The question arises immediately that the putative father may not have sufficient money available in order to offer a settlement. Many putative fathers are unemployed, or they have only meagre
jobs. Where a settlement is really valuable, in the case of a putative father who has a wife and children, the man is often struggling to support his family; the monthly payments are a constant worry, but he is unable to raise the amount for a settlement. Settlements to be effective should be of a sizeable sum when it is realized that weekly payments of even $5.00 amount to a little over $4000.00 for sixteen years. It has been proved that putative fathers do not usually support their children by agreements and orders, and settlements do give a definite assured amount, as well as frequently improving the emotional and social situation for the unmarried parents and the child. These points are illustrated by Table No. 3.

A difficulty occurs in B. C. when settlements are accepted for wards of the Superintendent of Child Welfare. In adoptions, settlements are not accepted, other than for confinement expenses, because money obtained from the putative father is for the child; but for the care of wards, the Province pays eighty per cent and the municipalities twenty per cent. It is not certain if the Superintendent is correct in accepting a settlement for a ward which is a definite amount but more money might be collected over a sixteen-year period if the putative father paid regularly. It is a case work situation wherein the Superintendent will have to prove to the municipalities that by agreeing to a settlement for a ward a social worker is developing the most constructive plan for the unmarried parents and for the child.

The case of Art and Sue illustrates a typical situation. The girl and the putative father were both married; Art had four
<table>
<thead>
<tr>
<th>Date of Case</th>
<th>Date of Settlement</th>
<th>Amount</th>
<th>Social Reason for Settlement</th>
<th>Disposition of Child</th>
</tr>
</thead>
<tbody>
<tr>
<td>1929</td>
<td>1944</td>
<td>$205</td>
<td>Putative father paid account in full at this time.</td>
<td>Mother gave child good care (according to record).</td>
</tr>
<tr>
<td>1931</td>
<td>1944</td>
<td>500</td>
<td>Interested in child, difficulty in keeping up payments.</td>
<td>Mother and husband planned to adopt child.</td>
</tr>
<tr>
<td>1933</td>
<td>1945</td>
<td>300</td>
<td>Denied paternity, payments delinquent.</td>
<td>Ward of CAS</td>
</tr>
<tr>
<td>1937</td>
<td>1944</td>
<td>500</td>
<td>Denied paternity, said &quot;outfit was crooked&quot;.</td>
<td>Child with mother's parents.</td>
</tr>
<tr>
<td>1937</td>
<td>1947</td>
<td>500</td>
<td>Putative father desired to be married.</td>
<td>In a foster home</td>
</tr>
<tr>
<td>1938</td>
<td>1946</td>
<td>500</td>
<td>Putative father married, has family obligations.</td>
<td>Child with mother and mother's parents.</td>
</tr>
<tr>
<td>1940</td>
<td>1949</td>
<td>1200</td>
<td>Putative father married, back from the war</td>
<td>Child with mother and her husband</td>
</tr>
<tr>
<td>1941</td>
<td>1946</td>
<td>500</td>
<td>Mother emotionally upset by monthly payments.</td>
<td>Mother and husband planned to adopt child settlement.</td>
</tr>
<tr>
<td>1942</td>
<td>1949</td>
<td>500</td>
<td>Mother emotionally upset by monthly payments.</td>
<td>Mother cared for child.</td>
</tr>
<tr>
<td>1943</td>
<td>1945</td>
<td>100</td>
<td>Putative father outside the Province.</td>
<td>Ward of CAS</td>
</tr>
<tr>
<td>1943</td>
<td>1947</td>
<td>200</td>
<td>Mother &quot;tired&quot; of irregular payments.</td>
<td>Mother cared for child at her sister's home</td>
</tr>
<tr>
<td>1944</td>
<td>1949</td>
<td>1500</td>
<td>Putative father uncooperative, offered settlement</td>
<td>Mother cared for child</td>
</tr>
<tr>
<td>1945</td>
<td>1947</td>
<td>725</td>
<td>Putative father married, his wife upset</td>
<td>In a foster home</td>
</tr>
<tr>
<td>1945</td>
<td>1949</td>
<td>300</td>
<td>Mother emotionally disturbed by monthly payments</td>
<td>Mother gave child good care (according to record)</td>
</tr>
</tbody>
</table>

**TABLE NO. 3**
children of his own and Sue, three children, two of which were born out of wedlock. When the fourth child was born, the mother decided to place the baby for adoption. The baby was considered non-adoptable at that time because Sue's other children were of low intelligence, also both she and Art were considered below normal intelligence. The baby was made a ward of the Children's Aid Society and a responsibility of the City. The putative father had only a marginal income on which to support a wife and four children; for this reason the worker decided that he should not be asked to contribute maintenance which he obviously could not afford to pay. He had paid the medical expenses and thought that he might manage a small settlement of two hundred dollars. It was difficult for the Social worker to reconcile the City Administrator who demanded that attempts should be made to secure continued monthly payments.

There is also a technical point involved because the Children of Unmarried Parents Act does not make provision for lump-sum settlements. The procedure, at present, is for the Superintendent to draw up a new agreement, under Section 26 of the Act, \(^1\) for a settlement, if she believes it meets best the needs of the child, the mother, and the putative father. If there has been an affiliation order against the putative father, the case is returned to court where a release is obtained from the order. An agreement is then signed by the mother, the father, and the Superintendent for the amount of the settlement. Settlements are becoming more and more numerous with satisfactory plans being worked out for the three people concerned — the mother, the father and the child. For this reason it seems necessary that some

\(^1\) See Appendix "A".
provision should be made in the legislation for a lump-sum settlement at birth of the child, or at a later date, evolving out of an agreement or an order, instead of the Superintendent assuming the responsibility of agreeing to a lump-sum payment in cases where she thinks it is advisable. If settlements were made a part of the Act, the difficulty with the municipalities would also be clarified.

Settlements have a definite advantage to the mother in many cases. For example, the mother may have hoped from the beginning of their relationship that the putative father would marry her. As time progresses and he makes small contributions, she clings to these payments with the feeling that she is deriving emotional satisfaction from them. The payments are actually frustrating to her, besides preventing her from living a more normal life and possibly thinking of marriage. Moreover, what is happening to the emotional development of her child all the time that she herself is so emotionally involved. Some unmarried mothers desire maintenance from the putative father believing that they are punishing him. The mother becomes more and more bitter, and the putative father knowing and sensing her vindictiveness becomes irregular with his payments. If a settlement is a possibility for the unmarried couple, it will not only benefit them, but also benefit the child.

The following cases will illustrate situations where settlements were considered advisable: In this case, John, the putative father, had known Norma for ten years. He stated that if the girl had informed him of her pregnancy before the baby was born, he would have married her. Both were intelligent people. The putative father was in the Navy and subsequently he married. John notified the social worker
that his wife knew of the situation but receipts for his payments were a constant reminder, therefore, he did not want them sent to his home. Payments became spasmodic, the putative father missed a year following discharge, then he asked for a settlement. He was very anxious to have the matter settled. The unmarried mother, the father and the Superintendent agreed to a settlement; the case was returned to court for the purpose of having the order rescinded. After the court session, John shook hands with Norma wishing her luck. She had not been married very long to a divorced man with three daughters. Her own son seemed to be fitting into this situation nicely. It is only when work with the unmarried parents has reached a point where they recognize a settlement as a final relinquishment of emotional as well as legal ties that the case may be closed.

Jane's information was that she and Donald were planning to be married as soon as he obtained a divorce. However, the putative father claimed that his relationships with the girl were extremely casual, and that he had no intention of marrying her. He agreed to admit paternity only if Jane placed the baby for adoption. Donald attempted to assure the worker that he was more than willing to assume responsibility but he could not be sure that the child was his. In a later interview the unmarried father admitted the mother's story but still doubted paternity. He obtained a divorce and planned marriage again. He indicated that if the mother decided on court action his marriage plans would be upset and he would leave the Province. Donald offered a settlement of $150.00 which was accepted. All this time Jane had been emotionally upset and had expressed much bitterness
towards the putative father. The child in question was placed in a foster home. The girl married, however, and at the time the settlement was suggested she and her husband were planning to adopt the baby. In this case there seemed little doubt that this man was the putative father, but because the relationship between the unmarried parents was a casual one, the man had no feeling for either the mother or the child; thus he could not accept responsibility. If a relationship between the worker and the putative father is established, as apparently occurred in this case, then the conflict may be worked through in the course of several interviews; as a result the putative father is not brought into court right away. A settlement, although very small, was the best plan in this situation.

In this example, Eddie was already engaged to another girl before becoming intimate with Dora. He married about five months before the baby was born. Eddie stated emphatically that he was not the father of the child and refused to give background information in case Dora decided to place the baby for adoption. A court order was made against him but he gradually became more and more behind in his payments; furthermore, he still insisted that he was not the father. In the meantime, Dora was attempting to support her child by doing housework; she was certainly in need of help from the putative father. For four years she was unable to make any plans in regard to her income because payments were so irregular. Dora became emotionally disturbed, but expressed this emotion only in demanding money. The worker realized that regular payments would not solve all her problems with Eddie, but since she was entitled to the money, efforts should be continued to obtain maintenance.
A settlement was suggested to the mother, although it was not certain if the putative father could offer a sufficient amount. It seemed more desirable for the girl to have a complete break with Eddie, also it would be more satisfactory to him and to his wife who were anxious to have a home and a family.

This is a case where it is wondered if trying to obtain payments from the putative father is a worthwhile process. Maybe when he denied paternity so emphatically the case should have been closed. The child needs protection and support, and the Superintendent has a responsibility to offer the services of the Children of Unmarried Parents Act to the mother for the welfare of her child. In this case the putative father denied paternity; therefore the mother decided upon court action. The mother was apparently so emotionally involved with him that she could not relinquish her baby for adoption, which after all is a desirable plan for the baby in situations such as these. Maybe if there had been no provision for maintenance from unmarried fathers, this girl might have placed her baby. She was entitled to support from the putative father under the Act, and thus under the court order. Evidence in court proved that the man was the alleged father, but what did the efforts involved by the worker, the mother, and the putative father in order to obtain maintenance, do to the lives of the unmarried parents and the child? A settlement was the best possible arrangement, but for six years there had been an emotional "entanglement" for the girl as well as stress and strain for the putative father and his wife. While the mother was so emotionally involved her child was experiencing the

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Section 4, see Appendix "A".
most critical years of his life especially as far as emotional development is concerned.

Elsie and Jim had been friends since high school days and they were engaged for four years before the mother became pregnant. Jim denied paternity, but because of their past engagement he decided that he should contribute maintenance. An agreement was signed. Elsie, who still loved the putative father, hoped to marry him more than anything else. He later offered a settlement of $1500.00 which the girl accepted. She was satisfied with the settlement, but wished that she might have had a chance to discuss it with Jim. She still loved him; sometimes she wanted him to see the baby and at other times to leave her alone. According to the record the child received excellent care with Elsie's parents. The unmarried mother had a good job, but made no personal life of her own, also she became almost completely withdrawn from her friends. A settlement was not the answer in Elsie's case; here again it is wondered about the value of attempting maintenance collections. It is possible that these two young people might have married if the element of money had not entered into the situation.

Another example may be cited where the mother attempts to plan and budget for herself and her child. She expects $5.00 weekly from the putative father according to the agreement or the order. One week the payment is received, the next week it is not, then the putative father may miss a whole month. Unmarried mothers, who keep their children, as a general rule have only a very limited income; this irregularity of payments is particularly upsetting to them. The release from this constant worry is a relief to the mother even if she accepts
only a small settlement as illustrated in the case of Fred who admitted paternity but was unwilling to sign agreement forms. He contributed small payments for three years without signing an agreement, then payments ceased. A court order was made and again irregular payments were kept up for about six months and then lapsed. The mother and the putative father had lived together for a time after they first met; however Fred decided that he no longer cared for the mother and that she was not capable of looking after her child. Later he became bitter when he was not allowed to visit the child; for this reason he decided that he should be relieved of his obligation. Eventually the question of a settlement was discussed with him and he paid a lump-sum of $200.00. The girl was willing to accept any arrangement that was satisfactory to the putative father. Irregular payments were upsetting to her and to her plans; for example, she might decide to buy clothing for her child, then the money would not arrive. In this case a settlement was certainly preferable to continuing the "struggle" for payments. The putative father was becoming more bitter over the years; while forcing payments through a court order is of little value. The settlement of $200.00 was accepted when the child was five years of age and certainly did not support the boy; nevertheless, the mother was released from the anxiety of worrying about monthly payments. The unmarried mother and the child lived with the mother's sister and family, which was a reasonably satisfactory home for the boy.

SETTLEMENTS AFTER THE BIRTH OF THE CHILD

Settlements are not accepted by the Superintendent until after the birth of the baby. In the first place, the mother may decide to
relinquish the baby after it is born; secondly, if a settlement is accepted prior to the baby's birth, it may sever a relationship between the unmarried parents, which might develop and be beneficial to the child. Maintenance under the Act is for the child and not for the unmarried mother except for confinement costs. Therefore, if the unmarried mother places her baby for adoption, a settlement will be accepted only for medical expenses. These points, related to settlements are illustrated by the following case: when Bill was interviewed, he immediately offered a settlement of $100.00 to cover confinement costs. He had recently married and stated that he had a very little margin on which to live. The putative father agreed to the settlement with the understanding that there would not be any further obligation on his part to make subsequent payments. The mother desired her baby to be adopted because she felt that she could not provide the security and advantages of a real home.

A settlement of $1000.00 was accepted in this case shortly after the baby was born. When Frank learned of the Mother's pregnancy, he decided it was a "joke", nevertheless, he was in a financial position to offer a settlement. This was considered advisable as Frank was married and had several children of whom he was very fond. The unmarried mother placed the baby in a foster home for three years until she married; then she and her husband adopted the child.

Sometimes settlements are accepted because the putative father is really too young to support the child; as suggested in the case where Ruth and Peter were only eighteen years of age at time of the birth of the baby. Ruth placed the baby with her parents who were very
fond of the child. Peter's father offered $250.00 to be used as a
settlement which was accepted by the Superintendent. The young couple
were friendly and hopeful that this relationship would eventually lead to
marriage. It would seem unfair to obtain an agreement or an order against
a lad just starting out on his own, as apparently Peter had just com­
pleted school. If, when these two young people are older, there is a
chance of their marriage, a small settlement appears to be the best plan.
The putative father is not taking the responsibility; on the other hand,
he will not have an opportunity to become bitter toward the unmarried
mother.

DEVELOPMENT OF SETTLEMENTS

It is interesting to note the trend toward settlements. In
some cases which arose in 1938 or 1939, settlements were not acceptable.
It was believed that it was more valuable for the putative father to
continue making payments. There still existed a social stigma and a
punitive attitude toward the putative father, not a conscious punitive
attitude on the part of social workers, but their own unconscious
anxiety in handling these cases and in interviewing putative fathers;
an attitude that still continues today to some degree.

The case of Neil, who was employed as a fireman on the rail­
road, will illustrate a typical situation. The baby was born in 1929,
two months later an order was made against Neil who denied paternity in
court but was judged to be the alleged father. An affiliation order was
made for $20.00 a month, however, because the needs of the mother and
the child were altered, the order was changed to $25.00 a month. Until
1936 the putative father made regular payments. He apparently lost his
job as a fireman because the girl made reports about the young man around the railway. Although Neil was missing for three years, arrears were later written off in court because he was unemployed or doing only odd jobs. In 1939 the order was reduced to $12.50 a month because the Superintendent decided that the mother had interfered with Neil's permanent job. At this time he asked for a settlement. He was advised by the worker that he should make every effort to pay regularly, and at the end of six months to suggest a settlement again when it was judged that the Superintendent would be agreeable to listening to his suggestions. He continued to pay until the child's sixteenth birthday. The child had been placed with the mother's parents while the girl herself lived in adultery with a man who had a wife and child. It is interesting that in 1939 settlements were not really considered. In this case the putative father had denied paternity but in spite of difficulties with the mother and her reputation, he kept up his payments. The child probably derived more financial benefit because payments were continued for another six years (@ $12.50 a month, approximately $1100.00) than if a settlement had been considered and accepted.

During the war maintenance collections were on the whole in good standing because many of the putative fathers were in the armed forces and contributed through the Dependents' Allowance Board. They were not actually aware of their contributions since DAB assumed the responsibility of sending the money to CWD each month.

An example is the case of Henry, a putative father who made several promises, such as marrying the unmarried mother and paying confinement expenses. The girl learned later that he was married, although
he had posed as a single man. Henry became evasive and denied emphatically any intimate relationships with the mother. However, in the presence of the worker and the mother, he admitted paternity and signed an agreement for $20.00 a month. During the next year he paid only $40.00. The worker suggested that as he was not dependable, a court order should be made. Henry failed to appear in court, although the case was called three times. Later he joined the Navy and paid $40.00 a month through the Dependents' Allowance Board. These payments were so well maintained that arrears were paid in full. Four years later when the putative father was discharged payments lapsed. It was discovered that he had gone to Scotland and although many letters were written to him, he never replied. In this case the mother was able to accept the fact that she would not be receiving further payments from the putative father. The record indicated that she was a resourceful person and was able to continue her teaching profession, at the same time, maintaining excellent care for her child in her sister's home.

Another example is the case of Alice, who kept her child because she hoped that George would marry her as soon as he obtained a divorce. At the time George was in the Navy. He admitted paternity and his willingness to do everything possible. A court order was made for DAB; for four years payments were regular and up to date. George obtained a divorce but married another girl. On discharge his information was that he believed that Alice was married and he hoped he would not be called upon to contribute further maintenance. The mother and her husband had already applied to adopt the child, therefore, George was released from his responsibility.
These two cases point out the fact that payments were regular when putative fathers were in the services but on discharge they did not wish to accept the responsibility again. It is interesting that a decrease in maintenance collections was expected following the discharge of service personnel, but this did not occur. The number of illegitimate births has not increased since the war, but the services under the Children of Unmarried Parents Act have gradually become better known in British Columbia and more unmarried mothers and their children have been offered assistance.

After discharge putative fathers often found difficulty in obtaining employment and thus meeting payments, many of them offered settlements with their gratuities to be freed of the monthly responsibility. Other unmarried fathers who had wives and families of their own, desired to begin a fresh life. Settlements in these cases seemed to be the answer and often advisable. No one knew what kind of a job the putative father might obtain, and if he ever would be able to meet his payments again.

The following cases serve to illustrate these points. Dick, the putative father, denied responsibility but indicated that he would assume responsibility for the baby which was born in 1938. A court order was obtained for twenty-five cents a week, later it was increased to $2.00 a week. In 1939 Dick lost his job and did only odd jobs until he joined the Navy at the end of 1942. In that three-year period the unmarried mother laid information in court three times; a "shew cause" summons was also issued because the putative father could not be located. After he joined the Navy, payments were regular until
August, 1945, when he was discharged. Dick offered a settlement of $500.00 with his gratuities which was accepted and paid in full. The worker pointed out to the mother that there was little likelihood of the putative father continuing payments under the court order, since he was married and naturally his family obligations should have a prior claim. For this reason the worker encouraged the mother to accept a settlement. The child had developed remarkably well, and lived with the mother's parents, as indicated by the file.

Allen admitted paternity but would not consider a long-term agreement. He was in the Army when the child was born; at that time he asked for his gratuities to be accepted as settlement. The worker pointed out that a settlement was not as fair as an agreement, possibly because she knew that Allen had urged that the baby should be placed for adoption, also he was trying to evade his responsibility. By a continuing relationship with him, the worker attempted to increase his sense of responsibility. The girl who was extremely fond of him, hoped he would marry her even up to three years after her child was born. Payments were received regularly every month until his discharge. The unmarried mother decided that she would withhold court action if the putative father could raise a settlement. She accepted $300.00. At this time the worker felt that a settlement seemed advisable from both the point of view of the mother, and the father. It was judged that the mother's tie with Allen should be broken, particularly since she was capable of supporting her child; she had become more and more disappointed in the putative father's attitude, and her vindictiveness had continued through the years.
When the unmarried father was interviewed he denied paternity absolutely and stated that someone else had been intimate with the mother. However, when the worker offered to contact the other man he claimed that it was not necessary and that he would be willing to pay as far as he was able to do so. On his return from Overseas, he asked about a settlement with his gratuities because he did not wish to continue paying for the next eight years. The worker decided that it would be advisable to accept his offer because he desired to be married and naturally to be relieved of his obligation. The child was well settled in a foster home. The unmarried mother, who seemed mentally dull, showed no interest in the child at all.

In these three cases it is to be noted that settlements were accepted from the putative fathers not only to relieve them of their obligations, but also to consider the welfare of the mother and the child. It is only when a plan is adequate for and acceptable to all three persons — the unmarried parents and the child — that the Superintendent may be justified in relieving the putative father of his obligation.

Since that time when gratuities were accepted as settlements, there has been a definite trend toward the use of settlements. Careful consideration being given to each case where there is a possibility of a settlement. It should be interesting to cite a few cases where settlements are not yet effective but are being considered.

Mr. C, in this case, is an eccentric old man of sixty-four years of age. Until last year his payments were up to date but suddenly he discontinued maintenance because the mother was married.
She had been married before she met the putative father; however, she and her husband are not in a financial position to adopt the child. A settlement seems a reasonable solution in view of the putative father's age and his financial position, and the fact that the mother and her husband need the extra money for the care of the child.

Another case, Bob, who readily admitted paternity and willingly signed an agreement, paid regularly for over a year. The mother married nearly a year after the baby's birth. She states that at one time she was in love with Bob but now has no regard for him. The worker is aware of the fact that the girl is in need of help as far as her attitude to her husband, child, and Bob is concerned. A settlement will be considered as soon as it is reasonably certain that the mother's marriage is a lasting one. This is, of course, protection to the child.

An unmarried father frequently decides to discontinue payments when the mother marries; this is probably a reasonable attitude because he must have feeling in regard to paying maintenance into another man's family; also the mother often cannot do justice to her marriage when she is reminded of the putative father each month. There is no provision in the Act for relieving the putative father of his responsibility when the mother marries, unless she and her husband adopt the baby. If the Superintendent agreed to this suggestion, she would have to be satisfied that the child was being adequately cared for by the mother and her husband. The next best plan, of course, is a settlement which is the suggestion in the above case.

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3 Children of Unmarried Parents Act, Section 4, see Appendix "A".
SUMMARY

There is a place for monthly payments where it is believed that assuming such a responsibility is a growth process, especially for a putative father who has never in his life apparently assumed any responsibility. This one piece of responsibility, along with case work from a relationship established with a social worker, may help the putative father to grow emotionally and to broaden his sense of responsibility. However, there are so many reasons, which have been mentioned and illustrated in this chapter, why settlements are considered beneficial to the unmarried parents and to the child, that it is the opinion that lump-sum settlements are a more constructive plan of maintenance from putative fathers for children born out of wedlock than monthly collections according to orders or agreements. It is not always feasible for an unmarried father to produce a sufficient amount for a settlement, and in new cases (cases opened at birth of the child) it is understandable that a sizable sum will be required, unless, of course, the social situation is such that it is better for the mother and the putative father to agree to a small settlement.

The protection of the child, the social situation of the unmarried parents and the child, and the emotional involvement between the mother and the putative father, must all be considered; if a settlement best meets the needs of these three people, then it is a constructive method of obtaining maintenance collections from men who have acquired the responsibilities of fatherhood in unorthodox ways but may be encouraged to make some reasonable acceptance of them.
CHAPTER VII

THE WAY FORWARD

Three methods of obtaining maintenance payments from putative fathers under the Children of Unmarried Parents Act have been discussed in this thesis; namely, affiliation orders, agreements, and settlements. It is recommended that affiliation orders should be used only as a last resort, and if used the amount of the order should certainly be within the putative father's ability to pay. The Act does not contain any purely punitive clause; nevertheless, an element of force may enter into court procedure and the subsequent compliance with court orders. Resorting to court action presupposes a maladjustment in the social situation, wherein the putative father is frequently unwilling to admit paternity and to contribute to the support of the child born out of wedlock. Maintenance can and should be collected on a case work basis.

Agreements are, therefore, more socially sound. The putative father voluntarily agrees to pay maintenance for the support of the child; moreover, both he and the unmarried mother are able to decide with the social worker on an amount for the agreement that is financially as well as emotionally satisfying to the man and to the unmarried mother. The social worker is afforded an opportunity of judging these three people -- the mother, the putative father, and the child -- as a family unit. Case work with the unmarried couple will assist in formulating a constructive plan for the development of the child, the rehabilitation of the mother, and a plan which is satisfying to the putative father.

An agreement is a socially acceptable method of obtaining maintenance collections if the putative father is able and willing to
pay for the support of a child over a sixteen-year period. Settlements are a means of relieving putative fathers from their responsibilities, if this solution best meets the needs of the child and the unmarried parents. Settlements offer many advantages which may be considered in each case; the putative father is relieved of his obligation, therefore he is free to assume only the responsibilities of his legitimate family; the unmarried mother is no longer emotionally tied to the man by monthly payments which are frequently disturbing to her; for both the child and the girl there is a definite assured amount, no matter how small. If a case work function is performed, the amount will be agreed upon by both the unmarried parents and will be satisfactory to them both. The mother is relieved from continually worrying about whether she will receive the next month's payment. When the girl is satisfied and not emotionally disturbed, it is inevitable that the child will receive more love and better care -- settlements are sound preventive child welfare. It is recommended that settlements should be considered in every case where the worker judges that the needs of the child and the unmarried parents will best be fulfilled. It is also recommended that a clause be included in the Children of Unmarried Parents Act providing the Superintendent of Child Welfare with authority to accept settlements from putative fathers.

Individual treatment and case work with the putative father have been stressed in the light of judging his ability to contribute maintenance according to his financial and emotional circumstances. Thus, there will be cases where putative fathers are unable to make payments or offer a settlement, either because they invariably earn low
wages, or because they are unwilling to contribute to the child's support. Case work with the man may enable him to accept some responsibility towards the child, or the social worker may realize that it is more valuable to withhold a discussion of the amount of maintenance until the putative father is in a better financial position. In cases where putative fathers do not pay maintenance, some provision is necessary for the support and protection of the child. Because all children born out of wedlock are in a sense neglected children, more adoptions in this area are desirable. One philosophy suggests that if there were no such provision for maintenance collections from putative fathers, more unmarried mothers would place their children for adoption. It is submitted that the Children of Unmarried Parents Act is necessary to social workers, not as a means of influencing the unmarried mother in her decision about her child, but as a way of giving advice and protection to the girl and to her child, also of offering case work services to the putative father.

It is the opinion that not all workers are able to handle unmarried parents' cases. Self-awareness is essential so that workers do not allow their own anxieties to interfere with these cases. Some workers may be afraid of putative fathers who come to the agency full of apprehension and who immediately deny paternity. These are defences similar to those used by any other client when he is first interviewed. Other workers may be afraid of the authority of the Act, but the very limitations of the legislation offer security to the client. It should be realized that the putative father who is accused of paternity, has a problem like the unmarried mother; for this reason, a relationship
must be established with him before discussing his responsibility to the child.

The unmarried mother and the putative father require the skilled help of a social worker; also they need to know to which worker and which agency they are responsible. For the client and for administrative purposes a clear definition of functions is necessary between the private agencies and the Child Welfare Division, and between the City Social Service Department and CWD. Some people suggest that maintenance collections should not be centralized in Divisional office, that is, the Superintendent of Child Welfare should delegate authority to her representatives in the field. Presumably, therefore, the Social Welfare Branches, the Children's Aid Societies, the Family Welfare Bureaux, and CSSD would collect maintenance from putative fathers. It is the opinion that this is not good administration because putative fathers do not always reside in the same district as the mother, thus their cheques would be forwarded from one agency to another in order to reach the mother. There is another suggestion that if the Social Welfare Branches and CSSD collected maintenance, these agencies would be in a position to know when payments lapsed, and could then grant Social Allowance to the mother and the child. On the other hand, as these agencies are public assistance agencies, there might be a tendency to exert pressure for maintenance from putative fathers. It is believed that maintenance collections should remain centralized in CWD so that the worker in that agency may act in an advisory capacity to the other agencies on unmarried parents' cases. Emphasis may then be focussed on protection and support for
children born out of wedlock, as well as on case work with the unmarried parents.

In cases where it is considered that attempts to obtain maintenance are not worthwhile, or where it is considered that the putative father is unable to make payments, some provision needs to be made for the child. Social Allowance is granted to the unmarried mother and to the child, but only until the mother is able to accept employment, unless she is caring for more than one child. Aid to Dependent Children in the United States is granted indefinitely to the unmarried mother and her child and on a budget basis. Social Allowance would be adequate for the mother and the child's support if the rates were higher and the mother was not expected to find a job. A young child does not receive proper care and love when his mother is absent from home all day; too, the mother is often unable to earn sufficient wages to support both herself and the baby. Putative fathers do not support their children, but their contributions are a supplement to the mother's income. If the unmarried mother must seek employment, a fund to supplement her earnings might be a possibility. Dominion grants-in-aid to the provinces have been suggested for child welfare purposes, particularly in the treatment areas. A part of this grant might be allocated to a special fund -- for the care and support of children born out of wedlock. This grant would, of necessity, be a conditional grant-in-aid. Section 6 of the Children of Unmarried Parents Act provides:

"The Superintendent may upon his own application to any Judge of the Supreme Court be appointed guardian of a child born out of wedlock either alone or jointly with the mother of the child."

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2 See Appendix "A".
As joint guardian with the unmarried mother of the child, the Superintendent will be in a position to insure that the child receives proper care, particularly for his emotional development; for this reason workers should visit the mother and her child at regular intervals. The Superintendent may, therefore, be responsible for administering a conditional grant-in-aid, allocated to a special fund. It is suggested that the unmarried mother's income might be supplemented by a monthly payment from this fund in cases where the putative father is unable to contribute maintenance, or at certain times when he is unable to make payments because he is unemployed or has other family obligations.

Hopefully with continuing case work, there will be more adoptions of children born out of wedlock, but for unmarried mothers who keep their children, there must be support for the mother and for the child. Increased Social Allowance rates, and Social Allowance granted for an indefinite time may well be the answer. Case work not only enables the worker and the putative father to decide on which method of maintenance payment is preferable according to his individual circumstances, but also offers help to the child and to the unmarried parents.
CHAPTER 48.

An Act to provide for the Maintenance of Children of Unmarried Parents.

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

1. This Act may be cited as the "Children of Unmarried Parents Act." R.S. 1936, c. 36, s. 1.

2. In this Act, unless the context otherwise requires:—
   "Magistrate" means any Stipendiary Magistrate, Police Magistrate, or any two Justices of the Peace, or any one Justice of the Peace who is requested by the Attorney-General to act alone in any case, having jurisdiction in the locality in which the mother resides or in which she may be staying temporarily or otherwise, or, in the case of proceedings under section 21, having jurisdiction in the locality in which the garnishee resides:
   "Mother" means any single woman or widow who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, or any married woman who is living apart from her husband and who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, and who was living apart from her husband at the time of the conception of the child:
   "Superintendent" means the Superintendent of Child Welfare appointed under the "Protection of Children Act," or any municipal officer or person other than a municipal officer authorized by the Attorney-General to act...
3. Every District Registrar of Vital Statistics shall notify the Superintendent of the birth of every child born out of wedlock registered in his office under the "Vital Statistics Act" and of every birth so registered in such a manner as to suggest that the parents are unmarried or unknown, with such particulars as the Superintendent may require. R.S. 1936, c. 36, s. 3.

4. It shall be the duty of the Superintendent by inquiry through children's aid societies and otherwise to obtain all information possible with respect to every child born out of wedlock, and the Superintendent shall take such proceedings and do all such things as are permitted or required under this Act as may seem to him advisable in the interest of the child; but nothing in this Act shall require the Superintendent to interfere with the care and maintenance of any child where the child has been legitimated by the subsequent intermarriage of his parents, or where the child has been adopted pursuant to the "Adoption Act," or where the child is being cared for voluntarily by a person whom the Superintendent considers suitable to have the charge of the child. R.S. 1936, c. 36, s. 4.

5. Every woman who is a mother within the meaning of section 2 may apply to the Superintendent for advice and protection in any matter connected with her child or with the birth of her child, and the Superintendent shall take such action as may seem to him advisable in the interests of the mother and the child. In case the mother resides and has for six months last past resided within a municipality, the solicitor or prosecuting officer of the municipality shall, upon the request of the Superintendent, render to the mother and to the Superintendent such legal assistance as may be necessary in respect of any action taken or to be taken in the interests of the mother and the child. R.S. 1936, c. 36, s. 5.

6. The Superintendent may upon his own application to any Judge of the Supreme Court be appointed guardian of a child born out of wedlock either alone or jointly with the mother of the child. R.S. 1936, c. 36, s. 6.

7. (1) Upon complaint on oath made to a Magistrate that any woman has become a mother within the meaning of this Act, stating whether or not the child has been born, and stating the name of the person alleged to be the father of the child, the Magistrate may issue a summons requiring the putative father to appear at a time and place mentioned in the summons, or, if he sees fit, the Magistrate may issue a warrant for the apprehen-
sion of the putative father, and by the summons or warrant, as the case may be, shall require the putative father to answer to the complaint and to be further dealt with according to law.

(2) The complaint may be made:—
(a) By the mother or her next friend or guardian; or
(b) By the guardian of the illegitimate child; or
(c) By the Superintendent.

(3) In case it is made to appear to the Magistrate by whom any summons has been issued under this section that prompt personal service of the summons cannot be effected, and that the putative father is within the Province, the Magistrate may make such order for substituted or other service of the summons, or for the substitution of notice for service, by letter, public advertisement, or otherwise, as may be just.

(4) The fact that a summons has been issued shall not prevent any Magistrate from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the putative father.

(5) It shall not be necessary to make a warrant issued under this section returnable at any particular time, but the same shall remain in force until it is executed. R.S. 1936, c. 36, s. 7.

8. No affiliation order shall be made upon a complaint under this Act unless the complaint is made within the lifetime of the putative father, and:—
(a) Within one year after the birth of the child; or
(b) Within one year after the doing of any act on the part of the putative father which affords evidence of acknowledgment of paternity; or
(c) Within one year after the return to the Province of the putative father where he has been absent from the Province at the expiration of the period of one year from the birth of the child. R.S. 1936, c. 36, s. 8.

9. (1) If the putative father appears at the time and place mentioned in the summons, or if the putative father does not appear at the time and place aforesaid and proof is furnished to the satisfaction of the Magistrate present at the hearing of the due service or substituted service of the summons a reasonable time before the time appointed for appearance, or if the putative father is brought before the Magistrate present at the hearing by virtue of a warrant, the Magistrate may proceed to inquire into the matter of the complaint, and may make an order declaring the putative father to be the father of the child and requiring him to pay to the Superintendent:—
(a) The reasonable expenses for the maintenance and care, medical or otherwise, of the mother during the three months last preceding the birth of the child, at the birth, and during such period after the birth as may in the opinion of the Magistrate have been or be necessary in connection with or as a consequence of the birth of the child, taking into consideration the circumstances of the case and the report of any Health Officer or duly qualified medical practitioner made in respect thereof:

(b) A sum of money weekly towards the maintenance of the child until the child attains the age of sixteen years:

(c) The expenses of the burial of the mother in case of her death at or in consequence of the birth of the child:

(d) The expenses of the burial of the child in case of the death of the child before the making of the affiliation order.

(2) The Magistrate may, in his discretion, by the affiliation order or by a subsequent order varying it, require the mother to contribute a sum of money weekly towards the maintenance of the child until the child attains the age of sixteen years.

(3) In case the putative father does not appear at the time and place mentioned in the summons, and proof is furnished to the satisfaction of the Magistrate of the due service or substituted service of the summons a reasonable time before the time appointed for appearance, the Magistrate may, if he thinks fit, instead of proceeding ex parte to hear and determine the complaint in the absence of the putative father, issue his warrant as the Magistrate to whom the complaint was made might have done in the first instance for the apprehension of the putative father and adjourn the hearing of the complaint until the putative father is apprehended; but nothing done under this subsection shall prevent the Magistrate from proceeding ex parte at any time he thinks fit, in the event of the putative father not being apprehended. R.S. 1936, c. 36, s. 9.

10. The Magistrate shall fix such sums for maintenance as will enable the child to be maintained according to a reasonable standard of living, and the Magistrate shall be governed in his findings by a consideration of the probable standard of living the child would have enjoyed if he had been born to his parents in lawful wedlock. R.S. 1936, c. 36, s. 10.

11. Where an affiliation order has been made under this Act, then, upon the application from time to time of the Superintendent, or of either parent of the child, or of the child, or of any person entitled to make complaint in respect of the child under
this Act, and upon proof that the means of either parent or the needs of the child have altered in amount since the making of the affiliation order or the latest subsequent order varying it, the Magistrate by whom the original or subsequent order was made, as the case may be, or, in case of his death, illness, removal from office, or absence from the jurisdiction, any other Magistrate may vary the original or subsequent order so made. R.S. 1936, c. 36, s. 11.

12. Where an affiliation order is made or varied under this Act, the Magistrate may require the putative father against whom the order is made to furnish such security for the performance of the order and in such manner as the Magistrate may direct; and if the putative father fails to furnish the security required, the Magistrate may forthwith commit him to gaol, there to be imprisoned with hard labour for a term of not less than six months and not more than twelve months, or until he furnishes the security and pays the costs and charges of the commitment and conveying of him to gaol. R.S. 1936, c. 36, s. 12.

13. (1) Except as otherwise provided in this Act, the "Summary Convictions Act" shall apply to all proceedings under this Act, with such deviations from and variations in the forms prescribed by that Act as the Magistrate may in any case see fit to make for the purposes of this Act.

(2) Whether or not any proceedings have been taken under the provisions of this Act for the enforcement or to secure the performance of an affiliation order made thereunder, all rights, remedies, and procedure available under the "Summary Convictions Act" for the enforcement of an order for the payment of money may be had and resorted to from time to time so often as any payment required by the affiliation order is in arrear.

(3) The provisions of the "Summary Convictions Act" as to appeals, and the proceedings therein and incidental thereto, shall apply to any order made under the provisions of this Act, except that:

(a) Where the putative father is the appellant, proceedings on the order appealed from shall not be stayed, pending the appeal; and

(b) Where the mother is the appellant, no bond or security for costs of the appeal shall be required; and

(c) The time within which an appeal may be taken shall be three months after the order appealed from was made by the Magistrate; and
(d) The appeal shall be heard at the sittings of the County Court to be held nearest to the place where the order appealed from was made; and

(e) Where the notice of appeal is filed more than fourteen days before a sitting of the Court to which an appeal is given, such appeal shall be made to that sitting; but if the notice of appeal is filed within fourteen days of a sitting, the appeal shall be made to the second sitting next after such notice of appeal is filed. R.S. 1936, c. 36, s. 13.

14. Where an affiliation order has been made under this Act, either before or after the enactment of this section, requiring the payment of money by the putative father, and the Magistrate making the order failed or neglected to make any order or adjudication or distress or imprisonment in default of payment thereof pursuant to clause (a) or (b) of subsection (1) of section 52 of the “Summary Convictions Act,” then, upon application made by the Superintendent to any Magistrate, whether the Magistrate who made the affiliation order or another, and upon proof to the satisfaction of the Magistrate of the making of the affiliation order and that any payment of money required thereby is in default, the Magistrate may, without any notice to the putative father and without any hearing, make an order amending the affiliation order by the addition thereto of such order and adjudication as he may see fit to make for enforcing the payments of sums of money required by the affiliation order as under the provisions of clauses (a) and (b) of subsection (1) of section 52 of the “Summary Convictions Act” the Magistrate making the affiliation order might have done in the first instance; and the affiliation order shall thereupon be deemed to be amended and to have effect accordingly, and all proceedings may be taken thereon from time to time as if the affiliation order as amended had been duly made by the Magistrate acting in the first instance. A copy of every amending order made under this section shall be forthwith served on the putative father, either personally or in such other manner as the Magistrate may direct. R.S. 1936, c. 36, s. 14.

15. (1) No affiliation order shall be made upon the complaint of the mother unless her evidence as to the paternity of her child is corroborated by some other material evidence.

(2) Subject to subsection (1), the fact of paternity may be established under this Act upon such evidence as the Magistrate considers sufficient.
(3) Subject to subsection (1), and notwithstanding any other Statute or law to the contrary, in all proceedings under this Act, a married woman shall be a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken. R.S. 1936, c. 36, s. 15.

16. The Superintendent shall not be debarred from instituting or continuing proceedings under this Act by the death of the mother of the child born out of wedlock for whom relief is sought. R.S. 1936, c. 36, s. 16.

17. Where any proceedings are instituted under this Act by any person other than the Superintendent, the person instituting the proceedings shall give notice thereof to the Superintendent, and the Superintendent shall have the right to appear and intervene and be heard in person or by counsel on the proceedings. R.S. 1936, c. 36, s. 17.

18. The room or place in which the Magistrate sits to hear any complaint under this Act shall not be deemed an open or public Court, and all persons other than the officers of the Court, the parties interested, and their witnesses and counsel shall be excluded therefrom. R.S. 1936, c. 36, s. 18.

19. Every payment ordered by a Magistrate to be made in accordance with the provisions of this Act shall be made to the Superintendent, or to such person as the Superintendent may from time to time direct. R.S. 1936, c. 36, s. 19.

20. It shall be the duty of the Superintendent:—
   (a) To see that all payments directed to be made by the putative father under an affiliation order are duly made, and in default of payment to take all necessary proceedings for the enforcement of the order, including the enforcement of any security given by the putative father:
   (b) To see that all moneys collected under any affiliation order are paid and applied forthwith, without any deduction, to or for the persons entitled to relief in accordance with the terms of the order and the provisions of this Act. R.S. 1936, c. 36, s. 20.

21. (1) Any Magistrate may, upon the ex parte application of any person referred to in subsection (2) of section 7, and upon affidavit that an affiliation order for the payment of money has been made and that it is still unsatisfied, stating the amount due and in arrear thereunder, and that some other person is to the best of the deponent’s belief indebted to the putative father, and
that such person is within the jurisdiction of the Magistrate, order that all debts, obligations, and liabilities owing, payable, or accruing due from that other person (hereinafter called the "garnishee") to the putative father be attached to answer the affiliation order; and service upon the garnishee of the attaching order shall, from the time of service thereof, bind such debts, obligations, or liabilities in the hands of the garnishee.

(2) In the attaching order the amount attached shall be limited to the amount actually due by the putative father, along with a reasonable sum for costs.

(3) If the garnishee admits his indebtedness to the putative father, he shall forthwith pay to the Magistrate or to the Superintendent, or to such person as the Superintendent may direct, the amount of the indebtedness to the putative father or the amount limited by the attaching order; but if the garnishee does not forthwith pay to the Magistrate or to the Superintendent or person so directed the amount of his indebtedness to the putative father or the amount limited by the attaching order, or if the garnishee disputes any indebtedness to the putative father, the person who made the application for the attaching order may take the like proceedings as are prescribed in the "Attachment of Debts Act" in similar cases; and for the purpose aforesaid the proceedings may be transferred to the County Court of the county or portion of the county in which the garnishee resides, and the amount claimed against the putative father under the attaching order shall be deemed to be a judgment of that County Court.

(4) Payment by the garnishee to the Magistrate, or to the Superintendent or person so directed, or payment into the County Court in compliance with an order of a Judge thereof, shall be a valid discharge of the garnishee as against the putative father to the extent of the amount paid.

(5) The costs of garnishee proceedings under this Act shall be the same as are allowed in the County Courts in similar cases.

(6) The forms of affidavit and attaching order for the purposes of this section may be in the respective forms in the Schedule.

R.S. 1936, c. 36, s. 21.

22. (1) In addition to all other provisions of this Act for the enforcement of orders, every affiliation order made under this Act shall, upon the deposit of a copy of the order certified by the Magistrate by whom the order was made, or by the Superintendent having charge of the original order, in any Land Registry Office in the Province, be registered in the like manner and form a lien and charge on all the lands of the person against whom it is made in the land registry district in which the same is registered.
CHILDREN OF UNMARRIED PARENTS, MAINTENANCE OF.

(2) Every order so registered shall be deemed to be a judgment within the meaning of section 34 of the "Execution Act," and the Superintendent may pursue the same remedies for the recovery of any amount due thereon from time to time and all costs as if the order were a judgment of the County Court having jurisdiction in the locality in which the Land Registry Office wherein the order is registered is situate. R.S. 1936, c. 36, s. 22.

23. (1) In addition to all other provisions of this Act for the enforcement of affiliation orders, in case of the failure of the putative father to pay a sum of money ordered to be paid by any affiliation order at any time made under this Act, and when and as often as any payment so ordered is in arrear, any Magistrate may issue his summons commanding the putative father to appear at a time and place mentioned in the summons and show cause, before the Magistrate issuing the summons or such other Magistrate as may then and there be present, why the affiliation order should not be enforced.

(2) Upon proof of the service of the summons on the putative father, either personally or in such other manner as the Magistrate may in writing direct, the Magistrate present at the time and place mentioned in the summons may:

(a) If the putative father fails to appear in obedience to the summons; or

(b) If the putative father has disposed of any of his property since the making of the affiliation order; or

(c) If the putative father fails to satisfy the Magistrate that he is unable to pay the amount so ordered to be paid and in arrear,—

by order enforce payment of the amount so in arrear by the like proceedings, including imprisonment, as, under the "Summary Convictions Act," are applicable in the case of a pecuniary penalty, compensation, or sum of money adjudged or ordered to be paid by the conviction or order of a Justice of the Peace. R.S. 1936, c. 36, s. 23.

24. Every affiliation order shall bind the estate of the putative father after his death, and every sum payable thereunder shall be a debt due from and chargeable upon the estate of the putative father and recoverable at the suit of the Superintendent, but every affiliation order shall, as to any payment falling due before or after the putative father's death, be subject to review as provided in section 11, and no action or other proceeding shall be taken thereon after the death of the father without the leave of
a Magistrate, and the Magistrate before granting leave shall direct that notice shall be given to the widow and legitimate children of the putative father. R.S. 1936, c. 36, s. 24.

25. No agreement entered into between the mother of a child born out of wedlock, or an unmarried woman pregnant with a child likely to be born out of wedlock, and the putative father of the child, relating to any matters within the scope of this Act, shall be a bar to any proceedings under this Act. R.S. 1936, c. 36, s. 25.

26. Where the putative father admits the paternity of the child and makes an adequate offer to provide for the maintenance and education of the child, he may enter into an agreement in writing therefor with the Superintendent; and upon failure on the part of the putative father to comply with the terms of the agreement, the Superintendent may apply to a Magistrate for an affiliation order, and the agreement shall be sufficient proof of paternity. R.S. 1936, c. 36, s. 26.

27. (1) Any person who furnishes food, clothing, lodging, or other necessaries to any child born out of wedlock may maintain an action in any Court of competent jurisdiction for the value thereof against the father of the child, if the child was a minor at the time the necessaries were furnished, and was not then residing with his reputed father and maintained by him as a member of his family.

(2) Subsection (1) shall not apply where the father of the child has fulfilled the terms of an affiliation order made against him under this Act in respect of the child.

(3) Where an action is brought under this section by any person other than the Superintendent, the person bringing it shall forthwith give notice thereof to the Superintendent. R.S. 1936, c. 36, s. 27.

28. (1) Where the person suing for the value of the necessaries is the mother of the child, or a person to whom the mother has become accountable for the necessaries, the fact of the defendant being the father shall not be deemed to be proved by the evidence of the mother, unless her evidence as to paternity is corroborated by some other material evidence.

(2) Subsection (1) shall not apply where the person charged in the action has been declared to be the father of the child by an affiliation order made under this Act, and the affiliation order shall for all purposes of the action be deemed sufficient evidence of the paternity of the child. R.S. 1936, c. 36, s. 28.
29. No action shall be sustained under the last two preceding sections unless it is shown upon the trial thereof that while the mother of the child was pregnant, or within six months after the birth of her child, she did voluntarily make an affidavit in writing before a Justice declaring that the person afterwards charged in the action is really the father of the child, nor unless she deposited the affidavit, within the time aforesaid, in the office of the Registrar of the County Court nearest the place in which she then resided; but the affidavit shall not be evidence of the fact of the defendant being the father of the child. R.S. 1936, c. 36, s. 29.

30. Nothing in this Act shall take away or abridge any right of action or remedy that, without this Act, might have been maintained against the father of a child born out of wedlock. R.S. 1936, c. 36, s. 30.

SCHEDULE.

"CHILDREN OF UNMARRIED PARENTS ACT."

(Section 21.)

AFFIDAVIT IN SUPPORT OF GARNISHING SUMMONS.

[Name of mother],

I, , of , make oath and say as follows:

1. I am
2. On the day of , 19 , an affiliation order was made by for the payment to the Superintendent of Child Welfare by the above-named of the sum of dollars a week, and the sum of dollars for costs, and is still unsatisfied.
3. There is now due and in arrear under the said order the sum of dollars which the above-named has failed or refused to pay.
4. To the best of my belief of is indebted to the above named, and the said is within the jurisdiction of .

Sworn to at this day of , 19 , before me—

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GARNISHING ORDER.

Upon reading the affidavit of , sworn the day of , 19 , I do order that all debts, obligations, and liabilities owing, payable, or accruing due from to the above-named , but not exceeding the amount hereunder written, be attached to answer an order made by on the day of , 19 , under the above Act.

Amount in arrear $  
Costs $  
Amount garnished $  
Dated at this day of , 19 .

Magistrate in and for the
R.S. 1936, c. 36, Sch.
APPENDIX B.

SUMMARY OF AMENDMENTS

The summary includes only amendments that are pertinent and interesting to this thesis.

An Act to amend the "Children of Unmarried Parents Act" (assented to 7th March, 1927):

(a) "Magistrate" was redefined (Section 2)

from:
"Magistrate" means a Stipendiary Magistrate, Police Magistrate, or any two Justices of the Peace, and if any one Justice of the Peace is requested by the Attorney-General to act in any case, shall include that Justice."

to:
"Magistrate" means any Stipendiary Magistrate, Police Magistrate, or any two Justices of the Peace, or any one Justice of the Peace who is requested by the Attorney-General to act alone in any case, having jurisdiction in the locality in which the mother resides or in which she may be staying temporarily or otherwise, or in the case of proceedings under Section 21, having jurisdiction in the locality in which the garnishee resides."

(b) "Mother" was defined: (Section 2)

"Mother" means any single woman or widow who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, or any married woman who is living apart from her husband and who has been delivered of an illegitimate child, or who is pregnant and likely to be delivered of an illegitimate child, and who was living apart from her husband at the time of the conception of the child."

(c) Section 5 was amended:

from:
"The mother of any child born out of wedlock and any unmarried mother pregnant with a child likely to be born out of wedlock may apply to the Superintendent for advice and protection in any matter connected with the child or with the birth of the child, and the Superintendent shall take such action as may seem to him advisable in the interests of the mother and the child."

APPENDIX B - Cont.

to:
"Every woman who is a mother within the meaning of Section 2 may apply to the Superintendent for advice and protection in any matter connected with her child or with the birth of her child, and the Superintendent shall take such action as may seem to him advisable in the interests of the mother and the child."

In 1934 Section 5 was further amended by adding:

"In case the mother resides and has for six months last past resided within a municipality, the solicitor or prosecuting officer of the municipality shall, upon the request of the Superintendent, render to the mother and to the Superintendent such legal assistance as may be necessary in respect of any action taken or to be taken in the interests of the mother and the child.

An Act to amend the "Children of Unmarried Parents Act" (assented to 29th March, 1934)

In the 1927 amendment the following clause was added to the Act:

"Subject to Subsection (1), and notwithstanding any other statute or law to the contrary, in all proceedings under this Act, a married woman who is a mother within the meaning of this Act shall be a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken."

In the Canadian Child Welfare News of May 15, 1927, the following statement was made about the above amendment:

"It has been a fundamental observance in all Social work and most legal procedure to the present date, that a mother should not be compelled against her will to reveal the circumstances of the paternity of her child. In the case of children born to parents, legally married to each other, it has been the observance of the common law and social usage that a parent should not be entitled to bastardize the child."

In 1933 the clause which is Section 15 (3) of the Act was amended by striking out the words:

"Who is a mother within the meaning of this Act"

An Act to amend the "Children of Unmarried Parents Act" (assented to 7th April, 1933).
APPENDIX C.

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