

No. 10

3rd Session, 15th Legislature, Alberta
14 Elizabeth II

BILL 10

A Bill respecting Child Welfare

HON. MR. HALMRAST

Explanatory Note

General. This Bill will repeal and replace the present Child Welfare Act which is chapter 39 of the Revised Statutes. The Bill is divided into five Parts:

Part 1—Administration

Part 2—Neglected and Dependent Children

Part 3—Adoption

Part 4—Children of Unmarried Parents

Part 5—Transitional Provisions and Consequential Amendments.

To a large extent the Bill is a revision of the present Act to consolidate amendments made in the past, to clarify the meaning of some provisions and to reorganize and simplify administrative procedures. But there are a number of changes of substance. These include changes in the Adoption Part in consequence of the recommendations of the Committee on Child Adoptions appointed in November 1964 and a change in the role of municipalities in child welfare matters. Some obsolete provisions are omitted and some new provisions are added. The section references in the explanatory notes are to the equivalent or similar provisions in the present Act.

2. Definitions.

3. Establishment of the Child Welfare Commission. See present sections 4 and 5.

BILL

No. 10 of 1966

An Act respecting Child Welfare

(Assented to _____, 1966)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Child Welfare Act, 1966*".

2. In this Act,

- (a) "child welfare worker" means a person appointed under this Act as a child welfare worker;
- (b) "Commission" means the Child Welfare Commission established under Part 1;
- (c) "Department" means the Department of Public Welfare;
- (d) "Director" means the Director of Child Welfare appointed under Part 1;
- (e) "guardian" means a person who under Part VIII of *The Domestic Relations Act* is or is appointed as the guardian of a child or with respect to a ward of the Crown means the Director;
- (f) "Minister" means the Minister of Public Welfare;
- (g) "ward of the Crown" means
 - (i) an infant who is, either temporarily or permanently, in the custody of the Director pursuant to the order of a judge under Part 2, or
 - (ii) an infant who is in the custody of the Director pursuant to an instrument of surrender under Part 2.

PART 1

ADMINISTRATION

3. (1) There shall be a commission to be known as the Child Welfare Commission, which shall consist of not less than three and not more than five members.

4. Appeal to the Commission and the Minister.

5. Appointment of Director of Child Welfare to administer the Act. The present section 3 (1). The name of this officer is changed from Superintendent to Director. The duties stated in subsection (2) are presently carried out by him although the present Act states them as being duties of the Commission.

(2) The members of the Commission shall be appointed by the Lieutenant Governor in Council from the officers and employees in the Department, one of whom shall be the Director.

(3) The Lieutenant Governor in Council shall appoint one of the members as chairman and may appoint another member as deputy chairman who, in the absence of or on the inability to act of the chairman, may exercise all the functions and powers of the chairman.

(4) The Commission shall

- (a) advise the Minister on matters relating to child welfare,
- (b) assist and advise the Director in the administration of this Act,
- (c) encourage through study and discussion the development and maintenance of high standards of child welfare services in Alberta,
- (d) prescribe the standards and methods of work to be maintained and adopted by child welfare workers and by employees in the Department in all areas of child welfare work,
- (e) provide for the evaluation of the work done by child welfare workers and prescribing the methods of making such an evaluation,
- (f) prescribe the standards for personnel, buildings, equipment and service that shall be recommended to the Director of Welfare Institutions for child caring institutions, receiving homes, shelters and other places and institutions required to be licensed under *The Welfare Homes Act*,
- (g) prepare and submit an annual report to the Minister, and
- (h) perform such other duties as may be prescribed by the Minister or by the Lieutenant Governor in Council.

4. (1) Any person affected by a decision of the Director, a child welfare worker or any employee of the Department on any matter under this Act may appeal to the Commission for a review of the decision and the Commission may confirm, reverse or vary the decision as, in its discretion, it considers proper in the circumstances.

(2) Any person affected by a decision of the Commission under subsection (1) may appeal to the Minister for a review of the decision and the Minister may confirm, vary or reverse the decision as, in his discretion, he considers proper in the circumstances.

5. (1) In accordance with *The Public Service Act, 1962* there may be appointed a Director of Child Welfare who shall administer this Act under the direction of the Minister and with the assistance and advice of the Commission.

6. A new section is added to spell out the necessary power to delegate authority.

7. Right of Director to take part in any proceedings under the Act. The present section 98 (4).

8. Appointment of child welfare workers. Subsection (1) is the present section 3 (2). Subsection (2) is new.

9. Powers of child welfare worker. The present section 10 (2).

- (2) As part of his duties the Director shall
- (a) arrange for the investigation of allegations or evidence that children may be in need of protection and, where necessary, see that protection is provided,
 - (b) provide care for children assigned to his care or custody under this or any other Act, provide supervision for all children who are wards of the Crown or are assigned to his supervision under this or any other Act,
 - (c) arrange for the placing for adoption and arrange for the examination and disposal of applications received from prospective adoptive and foster parents,
 - (d) arrange for the keeping of careful and accurate records of foster homes and adoption homes in which wards of the Crown are maintained or for children for whom care is being provided,
 - (e) arrange for the evaluation of, supervision and inspection of homes in which children have been placed for foster care or adoption, and
 - (f) cause case histories and records to be kept of children who are dealt with under this Act.

6. (1) The Director may, in writing, authorize a child welfare worker or any employee of the Department to exercise any powers, duties and functions conferred upon the Director by this Act and specified in the authorization.

(2) Where, pursuant to subsection (1), the Director authorizes a person to exercise any power, duty or function of his, any reference in this Act to the Director in connection with that power, duty or function shall be construed as also referring to the person so authorized.

(3) An authorization purporting to be given by the Director under this section shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the signature or authority of the person signing it.

7. Where any proceedings under this Act are instituted by a person other than the Director, the Director has the right to appear and intervene and be heard by counsel or otherwise.

8. (1) The Minister may appoint any employee in the Department a child welfare worker for the purposes of this Act.

(2) In improvement districts and special areas, the Director may also appoint a member of the Royal Canadian Mounted Police or other responsible official as child welfare worker for any district or area, or part thereof.

9. For the purposes of this Act, a child welfare worker

- (a) has the powers of a peace officer,
- (b) has authority to enter all places where children may be employed or congregate, and

10. Payment of certain costs out of appropriation. This is taken in part from the present section 13 (11) and section 57 (5). Clause (d) is new.

11. Authority to make regulations. This section combines provisions found in the present sections 71, 92 and 94.

- (c) may obtain from the employers or persons having charge of such places full and complete information relating to a child found or employed thereon.

10. Out of the moneys appropriated by the Legislature for the purpose, the Minister shall pay:

- (a) the costs incurred for the maintenance of
 - (i) a child apprehended under Part 2, while he is detained in custody pending the disposition of his case, and
 - (ii) a temporary or permanent ward of the Crown, including necessary clothing, transportation and medical, hospital and dental treatment;
- (b) that portion of the cost of maintaining a child in temporary care pursuant to an agreement under section 35 that is not paid by the parent or other person in accordance with the agreement;
- (c) the costs incurred for the training and education of foster parents, for the return of children to the care of their parents outside the Province and for the provision of psychiatric services and psychological services;
- (d) the costs incurred in retaining counsel under section 18 to represent a child's interests or under section 73 to represent a complainant;
- (e) the costs incurred for any service necessary for the care and protection of children not otherwise provided for.

11. The Minister may make regulations

- (a) governing the duties of the Commission, the Director and any other official appointed under this Part,
- (b) prescribing rules under which applications under this Act or any Part thereof are to be made and dealing generally with all matters of procedure under this Act or any Part thereof,
- (c) fixing fees, costs, charges and expenses payable on proceedings under this Act or any Part thereof and for dispensing with the payment of such fees, costs, charges and expenses where, owing to lack of means or for any other reason, the judge considers such action advisable,
- (d) requiring and regulating the records to be kept and the reports to be made to the Minister by persons authorized under section 44 to engage in the work of placing immigrant children in the Province, and respecting the proper care, supervision and maintenance of immigrant children,
- (e) prescribing forms and providing for their use, and

12. Appointment of investigation committees. The present section 8.

13. Unauthorized disclosure of information is prohibited. The present sections 6 and 68 combined and revised to set out in greater detail the circumstances under which disclosure is permissible. Subsection (4) is new.

- (f) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act or any Part thereof.

12. (1) The Minister may, with the approval of the Lieutenant Governor in Council, appoint from time to time such committees as may be considered desirable for the purpose of making a thorough investigation into problems dealing with child welfare and of making recommendations for remedial changes.

(2) A committee appointed under this section shall consist of not more than three persons, one of whom shall be designated as chairman.

Disclosure of Information

13. (1) In the public interest, any file, document or paper kept by any person in any place

- (a) that deals with the personal history or record of a child or an adult, and
- (b) that has come into existence through any thing done under or pursuant to this Act,

shall not be disclosed to any person except upon the written consent of the Minister.

(2) No person shall disclose or be compelled to disclose any information obtained by him in the course of the performance of any duties under this Act

- (a) except at a trial, hearing or proceeding under this Act, and
- (b) in any other case, except upon the written consent of the Minister.

(3) Subsections (1) and (2) do not apply to a disclosure specifically authorized to be made by or under this Act or *The Vital Statistics Act, 1959*, or to a disclosure

- (a) to any employee of the Department or of any other department or agency of the Government, or
- (b) to any official of a municipal government or of the Government of Canada or of any province or territory of Canada, or an agency thereof, or
- (c) to any person assisting or acting as an agent of the Department,

or to a solicitor acting on behalf of any of them, where the disclosure is made to enable the giving of assistance and information required for the proper administration of this Act.

(4) No person shall publish in any form or by any means

- (a) the name of a child or his parent concerned in any judicial proceedings under this Act, or
- (b) an account of the circumstances brought out at such a judicial proceeding.

14. Definitions for Part 2. See the present section 9.

(5) A person who contravenes this section is guilty of an offence and liable upon summary conviction to a fine of not more than one hundred dollars and in default of payment to a term of imprisonment of not more than three months.

PART 2

NEGLECTED AND DEPENDENT CHILDREN

14. In this Part,

- (a) "child" means an unmarried boy or girl actually or apparently under eighteen years of age;
- (b) "foster home" means a private home approved by the Director for the placement of a child who is in his custody;
- (c) "institution" means a building or part thereof, other than a home maintained by a person to whom the children living in that home are related by blood or marriage, wherein care, supervision or lodging is provided for four or more children under the age of eighteen years but does not include a place of accommodation designated by the Minister as not constituting a child caring institution;
- (d) "judge" means a judge of the district court or a judge of the juvenile court, except in connection with permanent wardship orders in which case it means a judge of the district court only;
- (e) "neglected child" means a child in need of protection and without restricting the generality of the foregoing includes any child who is within one or more of the following descriptions:
 - (i) a child who is not being properly cared for;
 - (ii) a child who is abandoned or deserted by the person in whose charge he is or who is an orphan who is not being properly cared for;
 - (iii) a child where the person in whose charge he is cannot, by reason of disease or infirmity or misfortune or incompetence or imprisonment or any combination thereof, care properly for him;
 - (iv) a child who is living in an unfit or improper place;
 - (v) a child found associating with an unfit or improper person;
 - (vi) a child found begging in a public place;
 - (vii) a child who, with the consent or connivance of the person in whose charge he is, commits any act that renders him liable to a penalty under

- any Act of the Parliament of Canada or of the Legislature, or under any municipal by-law;
- (viii) a child who is misdemeanant by reason of the inadequacy of the control exercised by the person in whose charge he is, or who is being allowed to grow up without salutary parental control or under circumstances tending to make him idle or dissolute;
 - (ix) a child who, without sufficient cause, habitually absents himself from his home or school;
 - (x) a child where the person in whose charge he is neglects or refuses to provide or obtain proper medical, surgical or other remedial care or treatment necessary for his health or well-being, or refuses to permit such care or treatment to be supplied to the child when it is recommended by a duly qualified medical practitioner;
 - (xi) a child whose emotional or mental development is endangered because of emotional rejection or deprivation of affection by the person in whose charge he is;
 - (xii) a child whose life, health or morals may be endangered by the conduct of the person in whose charge he is;
 - (xiii) a child who is being cared for by and at the expense of someone other than his parents and in circumstances which indicate that his parents are not performing their parental duties toward him;
 - (xiv) a child who is not under proper guardianship or who has no parent
 - (A) capable of exercising, or
 - (B) willing to exercise, or
 - (C) capable of exercising and willing to exercise,
 proper parental control over the child;
 - (xv) a child whose parent wishes to divest himself of his parental responsibilities toward the child;
 - (f) "parent" includes a step-parent;
 - (g) "shelter" means a building or part of a building that is under the supervision of or approved by the Director and that may be used for the temporary care of children;
 - (h) "temporary home" means a home in which a child may be placed temporarily pending further consideration of his case.

15. Apprehension of neglected child. Subsection (1) is part of the present section 12. Subsections (2) and (3) are the present section 63.

16. Where apprehended child may be placed pending disposition of the case. Subsection (1) combines parts of the present sections 12 and 13 (2). Subsection (2) is new. Subsection (3) is the present section 17.

17. Care of child taken into custody. The present section 12a, except that subsection (1), clause (b) is new and the reference to hospitals in subsection (2) is new.

15. (1) Where he has reasonable and probable grounds for believing a child to be a neglected child,

- (a) a child welfare worker, or
- (b) a peace officer, or
- (c) the Director, or
- (d) a person specifically authorized in writing by the Director,

may apprehend the child without a warrant.

(2) Where it appears to a judge, on information laid before him on oath, that there are reasonable and probable grounds for believing there is a neglected child at a place within the jurisdiction of the judge, the judge may issue a warrant authorizing a person mentioned in subsection (1)

- (a) to enter, by force if necessary, a building or other place specified in the warrant and search for the child, and
- (b) to apprehend the child if, in his opinion, the child appears to be a neglected child.

(3) It is not necessary to describe a child by name in an information or a warrant laid or issued under subsection (2).

16. (1) A child apprehended pursuant to section 15 may, pending the disposition of his case,

- (a) be taken into custody and detained in a shelter, or
- (b) be permitted to remain with or be returned to his parents, or either of them, or his guardian or other person in whose care he may have been at the time of apprehension.

(2) Where at the time of being apprehended a child is a patient in a hospital, the person apprehending him may, upon advising the medical superintendent or senior medical officer of the hospital, leave the child in the hospital, and thereafter the hospital shall, for the purposes of the disposal of the case of the child under this Part be deemed to be a shelter and the child to be detained therein.

(3) An apprehended child who is being detained pending the disposition of his case

- (a) shall not be confined in a gaol, lock-up or police station, and
- (b) shall not be placed or allowed to remain in company with adult prisoners, and the officer in charge of the place of confinement or detention shall secure the exclusion of such a child from the society of adult prisoners during the child's detention.

17. (1) During the time a child is detained in custody pursuant to section 16 the authority who apprehended the child,

- (a) is responsible for his care, maintenance and well being, and

18. Requirement for a hearing. Subsection (1) is part of the present section 13 (1). Subsection (2) is derived from section 14a. Subsection (3) is the present section 13 (3). Subsection (4) is new.

19. Notice of hearings to parents. This section combines provisions found in the present section 13 (1), (4) and (12) and section 14a (2a) and (2b).

(b) may authorize the provision of such medical, surgical and psychiatric care as the authority considers necessary, without the consent of the parent or guardian and without an order of a court.

(2) No liability attaches to the authority or to a duly qualified medical practitioner or to a hospital by reason only that a child is provided with medical, surgical or psychiatric care as mentioned in subsection (1).

18. (1) Where a child is apprehended pursuant to section 16, a hearing to determine whether he is a neglected child shall be held before a judge within twenty days of the date of apprehension or within such further period as the judge may direct.

(2) Where an application is to be made for an order making the child a permanent ward of the Crown the hearing shall be before a judge of the district court.

(3) At the hearing the judge shall inquire into and ascertain the facts of the case, including the name and the date and place of birth of the child and the name, age, racial origin and religion of the parents.

(4) If he considers it to be in the public interest to do so, the Director may retain counsel to represent the interests of a child at any hearing under this Part with respect to the child, and may do so at any stage of the proceedings.

19. (1) Notice of the nature, time and place of every hearing under this Part shall be served personally upon a parent or guardian of the child to whom the hearing relates at least ten days before the date fixed for the hearing and at that time the judge shall not proceed to hear and dispose of the matter until he is satisfied that the parents or guardian and the Director have been notified of the hearing, or that every reasonable effort has been made to give the notifications.

(2) Notwithstanding subsection (1), if the circumstances warrant it, a judge

(a) may at any time before the time of a hearing

(i) authorize service *ex juris* and service by double registered mail or any other form of substituted service, and

(ii) authorize the giving of a specified period of notice being less than ten days,
and

(b) whether or not such an authorization has been given, may at the time of a hearing

(i) accept service made in any of the forms mentioned in subclause (i) of clause (a) as sufficient service, and

20. Proceedings to be as informal as possible. Subsection (1) is the present section 15 (1). Subsection (2) is the present section 20. Subsection (3) is the present section 21 (1) and subsection (4) is the present section 21 (2).

21. Evidence at hearings. Taken from the present section 13 (5), (6), (7), (7a) and (10a).

(ii) accept less than ten days' notice as sufficient notice,
or may, before or at the time of a hearing, dispense with service of notice.

(3) On an application under section 26, a copy of any affidavit or other material to be used in support of the application shall not be served upon the parent or guardian of the child.

20. (1) Proceedings under this Part with respect to a child, including the investigation, hearing and disposition of the case, may be as informal as the circumstances will permit, having due regard to the best interests of the child.

(2) A hearing by a judge of the juvenile court with respect to a child

(a) shall, where practicable, be held in premises other than ordinary police court premises, or

(b) where that is not practicable, shall be held in the private office of the judge, if he has one, or if not, in some other room in a municipal building,

but if no other place is available, the hearing may be held in an ordinary police court room only on the conditions that

(c) the hearing does not commence until one hour after any preceding trial or examination in the court room has ended, and

(d) no other trial or examination is held in the court room until after the hearing has ended and all persons having an interest in the hearing have left or have been removed from the court room.

(3) A judge shall exclude from the room where a hearing is being held all persons other than the counsel, any officer of the law, and any child welfare worker connected with the case, the Director or his representative and the parent or guardian of the child or the immediate relatives of the child concerning whom the hearing is being held and such other persons as the judge in his discretion permits.

(4) Where the judge considers it desirable, he may exclude from the room where a hearing is being held the child concerning whom the hearing is being held and the parent or guardian of the child and the immediate relatives of the child.

21. (1) A judge may

(a) compel the attendance of any person and require him to give evidence on oath and to produce such documents and things as may be required, and

(b) exercise the powers that are conferred for those purposes upon a justice of the peace under Part XIX of the *Criminal Code*.

22. Judge's finding on neglect. The present section 13 (8), (9) and (10).

23. Return of neglected child to parents under supervision. The present section 14 (1) in part and (1a).

(2) The evidence of each witness shall be taken under oath, except that where a child of tender years is offered as a witness and the child does not, in the opinion of the judge, understand the nature of the oath, the evidence of the child may be received though not given under oath.

(3) A judge may in his discretion accept evidence by affidavit.

(4) A certificate purporting to be signed by the head officer or deputy head officer of a mental hospital or a penal institution shall be admitted in evidence as *prima facie* proof of the facts stated therein without proof of the signature or authority of the person signing it.

(5) The deposition or transcript of the evidence taken at a prior hearing and any documents and exhibits received in evidence at a prior hearing and the order of a judge made after that hearing are admissible in evidence in any hearing under this Part without proof or upon such proof as the judge may require.

(6) A judge shall cause a record of the evidence of each witness to be taken in the same manner as if the hearing were a preliminary inquiry before a justice under Part XV of the *Criminal Code* and, upon the request of the Director, shall cause a copy of any deposition or transcript of evidence to be delivered to the Director.

22. (1) If a judge finds that a child is not a neglected child, he may direct that the child be returned to his parent or guardian or other person in whose care he may have been at the time of the apprehension.

(2) If a judge finds that a child is a neglected child he may make an order as provided in section 23 or as provided in section 24 and, in the case of a judge of the district court, also as provided in section 26.

(3) An order of a judge shall recite the necessary and pertinent facts so far as ascertained and the judge shall deliver a certified copy of his order to the Director.

(4) The Director shall, on request and free of charge, supply to the parent or guardian or person in whose care a neglected child may have been a copy of any order of a judge with respect to that child.

23. (1) Where it appears to a judge that the public interest and the interest of a child found to be a neglected child may best be served thereby, the judge may order

- (a) that the case be adjourned for not longer than twelve months from the date of the order, and
- (b) that the child, in the interim, be returned to his parent or guardian or other person in whose care he may have been at the time of the apprehension, subject to the inspection and supervision of the

24. Neglected child may be made temporary ward of the Crown. Subsection (1) is part of the present section 14 (1). Subsections (2) to (5) are the present section 14b.

25. Review of temporary wardship order. See the present section 14 (2).

Director or of a child welfare worker or of a person designated by the Director to accept such supervision.

(2) Where a case is adjourned pursuant to subsection (1), the Director may at any time he considers it advisable during the period of adjournment, and upon notice, bring the case again before a judge for further and other consideration and action.

24. (1) Where it appears to a judge that the public interest and the interest of a child found to be a neglected child may best be served thereby, the judge, by order, may commit the child to the custody of the Director as a temporary ward of the Crown for such specified period, not exceeding twelve months, as in the circumstances of the case the judge considers proper.

(2) A judge making an order under subsection (1)

(a) shall enquire as to the ability of the persons liable under the law for the child's support and maintenance to contribute to the support and maintenance of the child, and

(b) may order them to pay to the Director such monthly sum for the maintenance of the child as he considers proper, having regard to their ability to pay, but if those persons are present in court the judge, before making an order pursuant to clause (b), shall give them an opportunity to be heard.

(3) A judge may, from time to time, vary the amount to be paid under the order on the application of

(a) the Director, or

(b) any person against whom the order is made, upon proof of such circumstances as in his opinion justify a varying of the terms of the order.

(4) The amount fixed by an order under subsection (2) shall not exceed the current rate paid by the Government for foster home care.

(5) For the purpose of enforcing an order made under subsection (2) a judge of the juvenile court, on the application of a Director, may issue a summons to any person against whom the order was made, and subsections (2) and (3) of section 3 and of sections 4 to 14 of *The Alimony Orders Enforcement Act* apply, *mutatis mutandis*, to the proceedings.

25. (1) Where a child has been made a temporary ward of the Crown a further hearing may be held before a judge

(a) at any time during the period of temporary wardship if the Director considers it advisable, or

(b) at the expiration of the period of temporary wardship.

26. Neglected child may be made a permanent ward of the Crown. See present section 14a (2), (3) and (4).

27. Appeal to the Supreme Court. The present section 16.

(2) Upon the further hearing the judge shall enquire and determine whether the circumstances justify the continuation of the temporary wardship or justify the return of the child to the parent or guardian or other person in whose care he may have been at the time of apprehension either

(a) subject to inspection and supervision as provided in section 23, or

(b) not subject to such inspection and supervision,

and as the circumstances require, the judge may make a further order under section 24, discharge a subsisting order under section 24, make an order under section 23 or find the child to be no longer a child in need of protection, but no further order may be made under section 24 that will result in the child being a temporary ward of the Crown for a continuous period after the commencement of this Act of more than thirty-six months.

26. (1) Where

(a) a child is a temporary ward of the Crown and the Director is of the opinion that he should be made a permanent ward of the Crown, or

(b) the Director is of the opinion that a child is a neglected child and should be made a permanent ward of the Crown,

the Director, or a person authorized by him in writing, may apply to a judge of the district court, on notice of motion, for an order making the child a permanent ward of the Crown.

(2) Where upon the hearing of the application the judge finds that the child is a neglected child and if it appears to the judge that the public interest and the interest of the child may best be served thereby, the judge may, by order, commit the child permanently to the custody of the Director as a permanent ward of the Crown.

(3) In lieu of making an order under subsection (2), the judge may make any order that he may make under section 23 or 24, and upon a further hearing under section 25 may also make an order under subsection (2) of this section.

27. (1) Within thirty days from the making of an order under this Part by a judge of the district court or the juvenile court,

(a) a parent, guardian or other person in whose care the child may have been, or

(b) the Director,

may appeal to a judge of the Supreme Court by filing with the clerk of the court of the judicial district within which the order was made a notice of appeal setting out the particulars of the order appealed from and the grounds for the appeal.

28. Effect of irregularities. The present section 15 (2).

29. Effect of out of province orders. The present section 43.

(2) A copy of the notice of appeal shall be served upon the judge who made the order and

(a) upon the parent or parents of the child or the guardian or other person in whose care the child may have been, or

(b) upon the Director,

as the case may be, within thirty days from the date of the making of the order, or such longer time as a judge of the Supreme Court may order.

(3) The judge who made the order appealed from shall, within seven days from the time the notice of appeal is served upon him, forward to the clerk of the court of the judicial district in which the notice of appeal is filed

(a) the order,

(b) the depositions or transcript evidence taken at the hearing,

(c) all documents and exhibits filed at the hearing, and

(d) a report setting out his reasons for making the order.

(4) Unless a Supreme Court judge otherwise directs, the appeal shall come on for hearing at the first sitting of the Supreme Court to be held, after the filing and serving of the notice of appeal, in the judicial district in which the notice of appeal is filed.

(5) Upon the hearing, the Supreme Court judge shall determine the appeal upon the material filed and such further evidence as he may require or permit to be given and may

(a) affirm the order made, or

(b) revoke the order made, or

(c) make any order that could have been made at the original hearing,

and for that purpose he has all the powers of a judge of the district court and of the juvenile court under this Part.

28. No adjudication or order made under this Part with respect to a child shall be quashed or set aside because of any informality or irregularity when it appears that the disposition of the case was in the best interests of the child.

29. (1) Where, by an order of a court in any other province or territory of Canada or in any state or country, full parental rights and responsibilities in respect of a child have been absolutely and for all purposes legally vested in any person, organization, province, territory, state, country or legal representative thereof, other than a parent

30. Voluntary surrender of custody to the Director. The present section 51 in part.

31. Guardianship of ward of the Crown. The present section 14 (3) in part and section 22.

32. Right of custody of a child given the Director takes precedence over a similar right given to others. New.

of the child, the order has the same force and effect in Alberta as if it had been made under this Act and until further order under this Act.

(2) Any statement, consent or declaration made by anyone in whom parental rights and responsibilities have been vested as mentioned in subsection (1) has the same force and effect as it would have had if made by the parent or parents of the child.

30. (1) Where a parent, by instrument of surrender acceptable to the Director, surrenders custody of a child to the Director for the purposes of adoption, the parent is not thereafter entitled, contrary to the terms of the instrument, to the custody of or the control or authority over or any right to interfere with the child.

(2) A surrender of custody of a child by an instrument as mentioned in subsection (1) given by a parent who is under twenty-one years of age is as valid and binding as if the parent had attained the age of twenty-one.

(3) Where the custody of a child born out of wedlock is surrendered to the Director by an instrument as mentioned in subsection (1) and subsequently the parents of the child intermarry, then for the purposes of this Act the instrument of surrender shall be deemed to have been executed by both parents and both parents are equally bound thereby.

(4) Where the custody of a child is surrendered to the Director by an instrument as mentioned in subsection (1), the child becomes a permanent ward of the Crown.

31. (1) Notwithstanding *The Domestic Relations Act*, while an infant is a temporary ward of the Crown the Director is also a guardian of the person of the infant and may, to the exclusion of any other guardian, exercise all the rights of a guardian of the infant, except those that relate to adoption proceedings under Part 3.

(2) Notwithstanding *The Domestic Relations Act*, while an infant is a permanent ward of the Crown the Director is the sole legal guardian of the person and estate of the infant.

(3) Subsection (2) shall not be construed as affecting in any way any rights, duties or responsibilities of the Public Trustee with respect to any property held by him for or on behalf of an infant who is made a permanent ward of the Crown.

32. The right to custody of a ward of the Crown given the Director by an order of wardship or an instrument of surrender under this Part takes precedence over the right to custody given by any order for custody not made under this Act, whether the order for custody

(a) was granted to the mother or father of the child or to any other person, or

33. Duration of wardship. Subsection (1) is the present section 23. Subsection (2) is new and subsection (3) is the present section 48.

34. Religion of child. This replaces the present section 66.

(b) was granted before or after the making of the order of wardship or the execution of the instrument of surrender, as the case may be, and during the existence of the order of wardship or the instrument of surrender the effect of the order for custody is suspended.

33. (1) Where a child becomes a permanent ward of the Crown, he remains a ward of the Crown

- (a) until he reaches the age of twenty-one years, or
- (b) until he is adopted, or
- (c) until he is discharged from wardship by an order under subsection (3), or
- (d) until he dies,

whichever first occurs, and thereupon any order of wardship or instrument of surrender with respect to him terminates.

(2) Where a child becomes a temporary ward of the Crown, he remains a ward of the Crown

- (a) until the order of wardship expires or is terminated, or
- (b) until he reaches the age of eighteen years, or
- (c) until he is discharged from wardship by an order under subsection (3), or
- (d) until he dies,

whichever first occurs, and thereupon any order of wardship with respect to him terminates.

(3) Where a person is a temporary or permanent ward of the Crown, the Lieutenant Governor in Council may

- (a) at any time before an order of adoption in respect of that person is made, and
- (b) either absolutely or upon such conditions as are set forth in his order,

discharge the person from the wardship of the Crown.

34. (1) In this section,

- (a) "Protestant" includes the Christian religious denominations other than Roman Catholic;
- (b) "Roman Catholic" includes the Christian religious denominations in communion with the Church of Rome.

(2) A parent who surrenders a child by instrument as mentioned in section 30 may state that he has no preference as to what religious faith the child is brought up in, and in that event the placement of the child is not governed by religious faith.

(3) At the time of surrendering a child by instrument as mentioned in section 30 the parent has the right, if the parent so wishes, to state a preference as to whether he or she wishes the child to be brought up in the Protestant faith

35. Agreements for the temporary care of a child. The present section 57.

or in the Roman Catholic faith or in a religious faith other than Protestant or Roman Catholic, and in that event all reasonable efforts shall be made to comply with the religious preference.

(4) A statement of religious preference ceases to be effective upon the issue of a certificate by the Minister, at any time after one year from the date of the surrender, certifying that all reasonable efforts have been made to comply with the religious preference, and in that event the placement of the child is no longer governed by religious faith.

(5) Due regard shall be given to religious faith in the placement of a child made a temporary or permanent ward of the Crown by order of a judge, but

- (a) where there appears to be no suitable family, foster home or institution with which he may be placed that is of the same religious faith as that of the child, or
- (b) where there is a lack of evidence or knowledge of or a conflict of evidence as to the religious faith of the child,

the case shall be referred to the Commission which, in its discretion but subject to subsection (6), may provide for the placement of the child.

(6) Where a child is made a permanent ward of the Crown by order of a judge, a placement of the child for the purpose of adoption will be with a person of the same religious faith as that of the child, but this requirement ceases to be effective upon the issue of a certificate by the Minister, at any time after one year from the date of the order of permanent wardship, certifying that all reasonable efforts have been made to place the child with a person having the same religious faith, and in that event the placement of the child is no longer governed by religious faith.

(7) This section does not apply to the placing of children in a temporary home or an observation home, shelter or diagnostic centre for children established for the purposes of this Act, but due regard shall be given to the religious preference of a child so placed and proper time allowed for the exercise of religious duties.

35. (1) A parent or other person who has actual custody of a child and who, through necessitous circumstances, illness or other misfortune likely to be of a temporary duration, is unable to make adequate provision for the child may apply to the Director to have the child placed temporarily in a foster home or institution.

(2) The Director may enter into an agreement with the applicant to accept the child for care in a foster home or institution for a period not exceeding six months and to assume that part of the cost of maintenance of the child that the parent or other person is unable to pay.

36. Right of inspection. The present section 53.

37. Inducing child to leave place of lawful custody. The present section 64.

38. Desertion of foster home. The present section 33.

39. Duty of all persons to report cases of ill-treatment of children. New.

(3) Where the Director considers it to be in the best interests of the child to do so, the Director may renew an agreement for a further period not exceeding six months.

(4) The Director may, if he considers it to be in the best interests of the child, terminate the agreement and cause the child to be brought before a judge and in that case the child shall be deemed to be apprehended under section 15 as of the date of termination of the agreement and sections 16 to 34 apply *mutatis mutandis*.

36. A person in whose care a child is placed under this Part and a person entrusted with the care of any such child shall, at all reasonable times, permit the Director, a child welfare worker or a person authorized by the Director in writing in that behalf to visit the child and to inspect any place where the child may be or reside.

37. (1) No person shall

- (a) induce or attempt to induce a child or a ward of the Crown
 - (i) to leave, or
 - (ii) to remain away from or not return to, the building, premises, custody or control of a foster home, temporary home, shelter or institution or other place in which the child or ward has been placed or confined by competent authority, or
- (b) detain or harbour such a child or ward after a demand for his delivery up has been made by or on behalf of a person authorized by this Act to take possession of the child or ward.

(2) A person who contravenes this section is guilty of an offence and liable upon summary conviction to a fine of not more than one hundred dollars, and in default of payment to imprisonment for a term not exceeding three months.

38. (1) Where a child who has been received by a person into a foster home

- (a) deserts the home of his own accord, or
- (b) is wrongfully taken from the custody of that person with or without the consent of the child before he attains the age of eighteen years,

the person from whose home the child has deserted or from whose custody the child has been taken shall immediately notify the Director in writing and shall give all reasonable assistance in recovering the child.

(2) Any such person who fails to give the notice as mentioned in subsection (1) is guilty of an offence and liable upon summary conviction to a fine of not more than twenty dollars and in default of payment to a term of imprisonment not exceeding ten days.

39. (1) Every person having information of the abandonment, desertion, physical ill-treatment or need for protection

40. Ill-treatment of child an offence. Present section 59.

41. Other offences in respect of children. The present section 60 in part.

42. Employment of children in entertainment. The present section 60 in part and section 61.

of a child shall report the information to the Director or any supervisor of the Department of Public Welfare or a municipal welfare director or a solicitor acting on behalf of the Department of the Attorney General.

(2) Subsection (1) applies notwithstanding that the information is confidential or privileged and no action lies against the informant unless the giving of the information is done maliciously or without reasonable and probable cause.

40. A person who has the care, custody, control or charge of a child and who

(a) ill-treats, neglects, abandons or harmfully exposes the child, or

(b) causes or procures the ill-treatment, neglect, abandonment or harmful exposure of the child,

is guilty of an offence and liable upon summary conviction to a fine of not more than one thousand dollars and in default of payment to imprisonment for a term not exceeding two years, or to both fine and imprisonment.

41. A parent or person who is guilty of an act or omission contributing to a child being or becoming a neglected child or likely to make him a neglected child is guilty of an offence and liable upon summary conviction to a fine of not more than two hundred dollars, and in default of payment to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

42. (1) Notwithstanding section 34 of *The Alberta Labour Act*, the Commission may, upon application, grant a licence for the employment of a child over twelve years of age in any entertainment or series of entertainments where the Commission is satisfied

(a) of the fitness of the child to take part in the proposed entertainment or series of entertainments without injury to his life, limbs, health, education or morals, and

(b) that proper provision has been made to secure the health and kind treatment of the child proposed to be so employed.

(2) A licence granted under subsection (1)

(a) may authorize the employment of the child for such period of time and during such hours of the day, and

(b) may prescribe such other conditions and restrictions with respect to the employment,

as the Commission thinks fit and may be varied, added to or revoked by the Commission in its discretion.

(3) The Commission may require the person applying for a licence to pay the cost of any investigation in connection with the application and all other expense involved in the granting and enforcement of the licence.

43. Regulation of non-government institutions. The present section 50.

(4) A person who employs a child under sixteen years of age for the purpose of singing, playing or performing for profit or of offering any thing for sale in a public place or a place to which the public is admitted upon payment

(a) without a licence under this section authorizing that employment, or

(b) contrary to the conditions or restrictions in any such licence,

is guilty of an offence.

(5) Except where it is authorized by a licence under this section, a parent or other person who causes a child under sixteen years of age to be in a public place or a place to which the public is admitted upon payment for the purpose of singing, playing or performing for profit or of offering any thing for sale is guilty of an offence.

(6) A person who is guilty of an offence under this section is liable upon summary conviction to a fine of not more than two hundred dollars, and in default of payment to imprisonment for a term not exceeding six months, or to both fine and imprisonment.

Institutions

43. (1) The person in charge of an institution shall, on the admission of a child, enter in a register to be kept by him

(a) the name, sex and date and place of birth of the child,

(b) the name, address and religious faith of the parent or guardian from whom the child was received, and

(c) the date on which the child was received,

and shall also immediately after the removal of a child from the institution enter in the register the date on which and the name and address of the person by whom the child is removed.

(2) The person in charge of an institution shall keep such case histories and records in such manner and upon such forms as may be prescribed by the regulations.

(3) The person in charge of an institution shall produce the register and the case history and records of a child when required to do so by the Director.

(4) If the parents or guardian of a child who has been placed in an institution subject to payment being made by the parents or guardian neglect to visit or to contribute to the support of the child, the person in charge of the institution shall, after the neglect has continued for a period of two months, immediately notify the Director thereof in writing.

(5) Upon receipt of the notification the Director shall investigate the facts and take such action in the interest of the child as he considers necessary.

44. Placing of immigrant children in the Province. Replaces the present sections 24 to 42.

(6) The Director or his representative shall be permitted to enter an institution at any time and to examine the records kept by the institution.

(7) The person in charge of every institution shall, by the first day of March in each year, provide the Director with a report setting forth the full name of every child in the institution on the thirty-first day of December of the preceding calendar year and of every child who was in the institution at any time during that calendar year.

(8) If it appears to the Director from information received in respect of a child in an institution that the best interests of the child require that his case be inquired into, the Director may request the executive officer of the institution to bring the child before a judge of the juvenile court for investigation and examination, and upon making the investigation and examination the judge may require the child to be taken to a shelter or other place approved by the Director, and may thereafter by order authorize the Director

- (a) to return the child to the institution without special supervision by the Director, or
- (b) to take steps to have the child dealt with as a neglected child.

(9) A person who contravenes this section is guilty of an offence and liable upon summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

44. (1) In this section "immigrant child" means a child who has been brought into the Province for the purpose of settlement in the Province, and who does not reside in the home of his parent within the Province.

(2) No person shall engage in the work of placing immigrant children in the Province unless he is authorized by the Lieutenant Governor in Council to carry on the work and he deposits with the Minister the sum of five hundred dollars with respect to each child or furnishes satisfactory security for that amount.

(3) The authorization may be revoked by the Lieutenant Governor in Council on such terms and conditions with respect to the disposition of the deposit or security as he considers proper.

(4) No person shall, without written authority from the Director, place or cause to be placed or assist in the placing in the Province of an immigrant child, not being his own child or a child for whom he is acting as guardian or one towards whom he stands in *loco parentis*.

(5) Every person who takes an immigrant child into his home shall, within ten days after the reception of the child into his home send by registered mail, addressed to the

45. Definitions for Part 3.

46. Jurisdiction of district court judges to grant adoption orders.
The present section 72 (b).

47. Who may apply to adopt a child. The present section 73 (1)
in part, (5) and (6).

48. Petition to adopt a child. The present section 73 (1) and
(2) in part and subsection (3).

49. Affidavit in support of petition. The present section 74.

Director, a notice in writing stating the name, age and sex of the child, the date of his reception and the place from which the child came.

(6) A person who contravenes this section or the regulations relating thereto is guilty of an offence and liable upon summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

PART 3

ADOPTION

45. In this Part,

- (a) "child" means a boy or girl under twenty-one years of age who is not married;
- (b) "judge" means a judge of the district court.

46. A judge of the district court having jurisdiction in the judicial district in which

- (a) the child to be adopted resides, or
- (b) the guardian of the child resides, or
- (c) the petitioner resides,

has jurisdiction to grant an order of adoption.

47. An application to adopt a child may be made in accordance with this Part

- (a) by an unmarried person twenty-one years of age or over, or
- (b) by a husband and wife together, if at least one of them is twenty-one years of age or over, or
- (c) by a husband and wife together, if the child is the child of either of them, whether legitimate or illegitimate.

48. (1) An application to adopt a child shall be made by petition, which shall first be submitted to the Director.

(2) In the interests of the child, the Director shall cause an investigation to be made of each application to adopt a child and prepare a report of the investigation.

(3) An order of adoption shall not be made unless a petition together with a report of the investigation is presented to the judge by the Director.

49. (1) A petition shall be supported by affidavit disclosing

- (a) the name, date of birth, place of birth, sex and parentage of the child to be adopted, so far as is known,
- (b) the age, address, marital status and occupation of each petitioner and the relationship, if any, of the petitioner to the child, and

50. Submission of petition to a judge. The present section 73 (2) in part and section 75.

51. Form of proceeding. Subsection (1) is the present section 91 and subsection (2) is the present section 73 (4).

52. Consent to adoption by guardian required. The present section 76 (1) (b), (1a), (3), (4), (5) and section 77 (2) and (3).

(c) the name, date of birth, sex and address of each child of the petitioner.

(2) The petition shall, in respect of the fitness of each petitioner to adopt the child, be further supported by an affidavit or affidavits of persons acceptable to the Director, or by such other material as the Director may require.

(3) If an agreement or arrangement exists whereby consideration is passing to or from a petitioner, the terms of the agreement shall be disclosed in the petition and any document or writing relating thereto shall be made an exhibit to the affidavit of the petitioner.

50. (1) Within six months of the receipt of a petition for the adoption of a child, the Director shall present the petition to a judge.

(2) Every petition and the material to be used in connection therewith shall be filed in the office of the clerk of the district court.

(3) Copies of the petition and material shall be retained by the Director.

51. (1) Unless a judge otherwise directs, all proceedings under this Part relating to the adoption of a child shall be heard in camera in the chambers of the judge.

(2) A petitioner is entitled to be heard, either personally or by counsel, at the proceedings before a judge.

52. (1) Except as otherwise provided in this section, an order of adoption shall not be made without the consent of the guardians of the child.

(2) Where the child is a permanent ward of the Crown, the only guardian whose consent is required under this section is the Director.

(3) Where the consent of any other person required to an order of adoption is not produced, the judge may order notice of the petition to be served on that person and may permit the service to be made substitutionally and *ex juris* in accordance with the Consolidated Rules of the Supreme Court and if the person

(a) fails to appear at the time and place appointed, or

(b) appears and objects to giving consent upon grounds that the judge considers insufficient,

the judge may dispense with the consent of the person.

(4) The consent of a guardian is not required if

(a) the guardian is found by the judge upon evidence submitted to him to be insane, incompetent or unfit to give consent, or

(b) the guardian is under a duty to provide care and maintenance for the child and has neglected to do so,

53. Consent of child to adoption. The present section 76 (1) (a) and (2) and section 77 (1).

54. Certificate of Director required on adoption of wards of the Crown. The present section 79 (1) and (1a).

or

- (c) the judge, for reasons that appear to him sufficient, considers it necessary or desirable to dispense with the guardian's consent.

(5) A consent to an adoption executed in any province or territory in Canada in a form prescribed for consents in that province or territory is as good and sufficient as if it had been executed in the form prescribed under this Act.

(6) A consent to an adoption sworn outside Alberta before a commissioner for oaths is as good and sufficient as if it had been sworn before a notary public.

53. (1) Except as otherwise provided in this section, an order of adoption of a child who has attained the age of fourteen years shall not be made without the consent of the child.

(2) Where the consent of the child to an order is required and is not produced, the judge may require the child to be brought before him or may take such other means as he thinks proper to inquire into the reasons for the failure to produce the consent.

(3) The consent of the child to the order of adoption is not required if the judge, for reasons appearing to him to be sufficient, considers it necessary or desirable to dispense with the consent of the child.

54. (1) Where the child is a ward of the Crown, an order of adoption shall not be made unless the Director, in writing, certifies that the petitioner is in the opinion of the Director a fit and proper person to have the care and custody of the child and, subject to subsection (2), also certifies

- (a) that the child has been in the custody of the petitioner for at least one year immediately prior to the day of the filing of the petition, or
- (b) that the child has not been in the custody of the petitioner for one year but a one year period of custody is dispensed with on either of the following grounds
 - (i) that a period of custody has been partially completed and the petitioner has decided to live outside the Province, or is now living outside the Province, or
 - (ii) that the petitioner does not live in the Province and will take the child to live outside the Province if the order is granted.

(2) Where a petitioner does not come within the descriptions in clause (a) or (b) of subsection (1), a judge may, if he considers there are proper or sufficient reasons for so doing, make an order of adoption notwithstanding the absence of a certificate complying with either clause (a) or (b) of subsection (1).

55. Requirement on adoption of a child who is not a ward of the Crown. The present section 79 (2).

56. Order of adoption. The present sections 81 and 82 and new.

57. What an adoption order may do. Subsections (1) and (2) are the present section 83 (9). Subsections (3) and (4) are new.

55. Where the child is not a ward of the Crown, an order of adoption shall not be made unless the judge is satisfied with the propriety of the adoption having regard to the welfare and interests of the child and

- (a) that the child has lived with the petitioner for at least one year immediately prior to the day of the petition, and that during that period the conduct of the petitioner and the conditions under which the child has lived have been such as to justify the making of the order, or
- (b) that the petitioner is a fit and proper person to have the care and custody of the child, and that it appears desirable in the best interests of the child or for other good and sufficient reason that the one year period of residence or any portion thereof be dispensed with.

56. (1) Where the judge before whom a petition is brought is satisfied

- (a) that the petitioner is able to fulfil the obligations and perform the duties of a parent toward the child, and
- (b) that the requirements of this Part have been complied with,

the judge may make an order of adoption of the child by the petitioner.

(2) An order of adoption shall be in the prescribed form and

- (a) shall not show the surname of the child prior to the adoption, but
- (b) shall identify the child by reference to his given names prior to the adoption and the number given to the registration of his birth prior to the adoption.

(3) Where the child was born out of wedlock that fact shall in no case appear in the order of adoption.

57. (1) Upon an order of adoption being made, the adopted child shall assume the surname of the adopting parent, unless the judge, in the order, otherwise provides.

(2) Upon the request of an adopting parent, a judge may, in the order of adoption, change the given name of the child being adopted.

(3) Upon the request of an adopting parent, where

- (a) the adopting parent is a widow or widower, and
- (b) preceding the death of the spouse of the adopting parent, the child being adopted was in the custody of the adopting parent and the now deceased spouse,

a judge may, in the order of adoption, name both the surviving spouse and the deceased spouse as the adopting parents of the child.

58. Rights resulting from an adoption order. The present section 83.

59. Duties of clerk of the court with respect to his records. The present section 90 (1) in part, (2) and (3).

58. (1) For all purposes an adopted child becomes upon adoption the child of the adopting parent and the adopting parent becomes the parent of the child as if the child had been born to that parent in lawful wedlock.

(2) For all purposes an adopted child ceases, upon adoption, to be the child of his existing parents, whether his natural parents or his adopting parents under a previous adoption, and the existing parents of the adopted child cease to be his parents.

(3) Any reference to "child", "children" or "issue" in any will, conveyance or other document, whether heretofore or hereafter made, shall unless the contrary is expressed be deemed to include an adopted child.

(4) The relationship to one another of all persons, whether the adopted child, the adopting parent, the natural parents, or any other persons, shall be determined in accordance with subsections (1), (2) and (3).

(5) Subsections (2) and (4) do not apply for the purposes of the laws relating to incest and to the prohibited degrees of marriage to remove any persons from a relationship in consanguinity that, but for this section, would have existed between them.

(6) This section

(a) applies and shall be deemed always to have applied with respect to an adoption made under any legislation heretofore in force, and

(b) is binding upon the Crown for the purpose of construing this Act and the rights of succession affecting adopted children,

but nothing in this section affects an interest in property that has vested in a person before the making of an order of adoption.

59. (1) Where an order of adoption is made the clerk of the district court shall cause a sufficient number of certified copies of the order to be made and shall transmit

(a) two certified copies of the order to the Director, and

(b) one certified copy or, where the adopted child was born outside Alberta, two certified copies of the order to the Director of Vital Statistics, together with such other information as the Director of Vital Statistics requires to enable him to carry out the requirements of *The Vital Statistics Act, 1959*.

(2) After the certified copies of the order have been made the clerk shall put the petition, the material used on the petition, the record of proceedings and the order of adoption in a sealed packet.

60. Duties of Director with respect to his records. The present section 90 (1) in part, (5) and new.

61. Copy of adoption order may be provided to parent or child. New.

62. Setting aside adoption order. The present section 87.

63. Adoption orders of other jurisdictions. The present section 88.

64. Adoption advertisements prohibited. The present section 67. Subsection (2), clause (b) is new.

(3) The sealed packet may be opened on the written request of the Director for the purpose of supplying further certified copies of the order to the Director, but otherwise the packet shall not be opened and any information contained therein shall not be made public or disclosed to any person except upon the order of a court.

60. (1) When an order of adoption is made the Director shall put his records relating to the child in a sealed packet.

(2) The Director may arrange for

- (a) the microfilming of his records relating to an adopted child, and
- (b) the destruction of all or part of those microfilmed records,

in which case the microfilm shall be put in a sealed place.

(3) A sealed packet containing records and any sealed place containing microfilm of records shall not be opened and any information contained therein shall not be made public or disclosed to any person except

- (a) by the Director or upon the written direction of the Director, or
- (b) upon the order of a court.

61. The Director, upon request therefor

- (a) by a parent of an adopted child, or
- (b) by an adopted child,

may at any time supply a copy of the order of adoption to the parent or the child.

62. (1) No action or proceeding to set aside an order of adoption shall be commenced after the expiration of one year from the day of the order, except on the ground that the order was procured by fraud and then it may only be set aside if it is in the interests of the adopted child to do so.

(2) Where an order of adoption is set aside, the child ceases from the date of the setting aside of the order to be the child of the adopting parents and the adopting parent ceases to be the parent of the child from the same date, and the relationship to one another of the child and all persons is re-established as it was immediately before the order of adoption was made.

63. An adoption effected according to the law of any other jurisdiction has the same effect in the Province as an adoption under this Act.

64. (1) No person shall publish in any form or by any means an advertisement dealing with the adoption of a child.

65. Notice of surrender of a child for adoption to be given. The present section 52.

66. Prohibition against payment to procure adoption of child. New.

67. Definitions for Part 4.

(2) Subsection (1) does not apply to

- (a) the publication of a notice pursuant to an order of a judge, or
- (b) the publication of any advertisement authorized by the Director for the purpose of finding homes for children in his custody who are available for adoption.

(3) A person who contravenes this section is guilty of an offence and liable upon summary conviction to a fine of not more than fifty dollars and in default of payment to imprisonment for a term not exceeding one month.

65. (1) A person who surrenders the custody of a child to another person for the purposes of adoption shall notify the Director of the surrender of custody within thirty days thereof.

(2) A person who receives the custody of a child from another person for the purposes of adoption shall notify the Director of the receipt of custody within thirty days thereof.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and liable upon summary conviction to a fine of not more than one hundred dollars and in default of payment to imprisonment for a term not exceeding three months.

66. (1) A person, other than the Director, who gives or receives or agrees to give or receive any payment or reward, either directly or indirectly, to procure or assist in procuring a child for the purposes of adoption, is guilty of an offence and liable upon summary conviction to a fine of not more than two hundred dollars and in default of payment to imprisonment for a term not exceeding six months.

(2) No prosecution shall be commenced under this section except upon the written authority of the Minister.

PART 4

CHILDREN OF UNMARRIED PARENTS

67. In this Part,

- (a) "agreement" means an agreement entered into pursuant to section 70, whether or not varied by an order;
- (b) "judge" means a judge of the district court;
- (c) "mother" means
 - (i) a single woman who has been delivered of a child or who is pregnant and likely to be de-

68. Jurisdiction of judge. The present section 98 (1) in part.

69. General duties of Director. The present sections 96 and 97.

livered of a child or who was pregnant and the pregnancy terminated without the birth of a child, or

(ii) a widow who

(A) has been delivered of a child or

(B) is pregnant and likely to be delivered of a child,

twelve months or more after the death of her husband, or

(iii) a married woman living apart from her husband who

(A) has been delivered of a child, or

(B) is pregnant and likely to be delivered of a child,

twelve months or more after she ceased cohabiting with her husband,

and includes a woman who may make a complaint or continue proceedings pursuant to subsection (3) of section 74 or a woman who incurred the expenses mentioned in clause (a) of subsection (1) of section 81 and who marries before the making of an order or the entering into of an agreement;

(d) "order" means an order of a judge made pursuant to this Part, whether or not varied by a further order under this Part;

(e) "putative father" means a person alleged to have caused the pregnancy whereby a woman has become a mother within the meaning of this Part.

68. A judge having jurisdiction in the judicial district

(a) where a child was born out of wedlock, or

(b) where a mother resides, or

(c) where a putative father or a person declared to be a father resides,

has jurisdiction under this Part in all matters respecting the child, the mother and the putative or declared father, or any of them.

69. (1) A mother or a person who has the custody of a child born out of wedlock, or who has undertaken the care and maintenance of such a child, or who has supplied a mother or the child with necessities, may apply to the Director for aid and advice in matters pertaining to the child or the pregnancy of the mother and the Director shall thereupon take such action as seems to him to be in the best interests of the mother or the child, or both.

(2) The Director shall, in his discretion, by inquiry through child welfare organizations, maternity homes and otherwise, obtain all possible information with respect to each child born out of wedlock.

70. Agreement to pay for maintenance of the child. Subsection (1) is the present section 114 (1), subsection (2) is new, and subsection (3) is the present section 114 (5) and subsection (4) is the present section 113.

71. Lodging of complaint. The present section 98 (1) in part and section 102 (1).

72. Before whom a complaint may be made. The present section 98 (1) in part.

73. Who may lodge a complaint. The present section 98 (2) and 98 (4) in part. Subsection (3) is new.

70. (1) A putative father may enter into an agreement

(a) with the Director, or

(b) with the Director and the mother,

whereby he undertakes to pay the whole or any part of all or any of the expenses referred to in section 81, if the amounts to be paid are acceptable to the Director and if the agreement contains the putative father's admission that he caused or possibly caused the pregnancy of the mother.

(2) Where a mother has not retained her child born out of wedlock in her custody and under her care and control, she may enter into an agreement with the Director whereby she undertakes to pay the whole or any part of any of the expenses referred to in section 81, if the amounts to be paid are acceptable to the Director.

(3) Subsection (2) does not apply with respect to any of the expenses or part of the expenses referred to in section 81 which the putative father

(a) has by an agreement under this Part agreed to pay, or

(b) has by an order under this Part been ordered to pay.

(4) An agreement under this section may be varied or terminated or reinstated at any time by agreement of the parties thereto.

(5) An agreement between a mother and a putative father of the child,

(a) relating to matters within the scope of this Part, and

(b) not entered into in accordance with this section, is not a bar to any proceedings under this Part.

71. (1) Where a woman has become a mother, a complaint may be made against the putative father as hereinafter provided.

(2) Where any one of two or more persons may be the putative father, the names of all those persons may be stated in the complaint as putative fathers.

72. (1) A complaint shall be made before a judge or before any magistrate and shall be in writing and under oath.

(2) Where a complaint is made before a magistrate, he shall forthwith transmit it to a judge with an endorsement thereon to the effect that it is transmitted pursuant to this Part and the judge shall act upon the complaint in the same manner as if it had been made before him.

73. (1) A complaint may be made

(a) by the mother,

74. When complaint may be lodged. The present sections 99 and 107. Subsection (3) is new.

75. Issue of summons to putative father. The present section 98 (3) in part and section 100.

(b) by the next friend or guardian of a child born out of wedlock, or

(c) by the Director.

(2) Where a complaint is made by someone other than a person authorized by the Director, the person instituting the proceedings shall give notice thereof to the Director.

(3) If he considers it to be in the public interest to do so, the Director may retain counsel to represent a person who has made a complaint and may do so at any stage of the proceedings.

74. (1) A complaint against a putative father may only be made within his lifetime and

(a) not later than twenty-four months after the birth of the child or the termination of the pregnancy, or

(b) within the twelve months next after the doing of an act, on the part of the putative father, that could reasonably be regarded as an acknowledgment that he caused or possibly caused the pregnancy, or

(c) within twelve months after the return to the Province of the putative father where he was absent from the Province at the expiration of the period of twenty-four months from the birth of the child or the termination of the pregnancy.

(2) The death of the mother does not bar the making of a complaint or the continuation of any proceedings under this Part commenced before her death.

(3) If the child is retained in her custody and under her care and control,

(a) the marriage of the mother, or

(b) the resumption by the mother of cohabitation with her husband,

does not bar the making of a complaint or the continuation of any proceedings under this Part commenced before the marriage or resumption of cohabitation, as the case may be, but in either case a judge may only make an order if the circumstances are such as would justify the reinstatement of an existing order as provided in section 83.

75. (1) Upon a complaint being made, a judge shall issue a summons to the putative father requiring him to appear at the time and place stated in the summons before a judge then present to show cause why an affiliation order should not be made against him.

(2) The judge may determine the manner in which the summons is to be served and may authorize service *ex juris*.

76. Failure of putative father to appear. The present section 101 (1) and (5). Subsection (3) is new.

77. Exclusion of public from hearing of complaint. The present section 108.

(3) Notwithstanding subsection (1) a judge, upon such evidence as is satisfactory to him, may

- (a) instead of issuing a summons, or
- (b) at any time after the issuance of a summons and before the time fixed for the hearing of the complaint,

issue a warrant for the arrest of the putative father and to have him brought before any judge.

(4) Where a putative father who has been served with a summons or who has been bound over to appear pursuant to subsection (5) does not appear at the time and place stated and no just excuse is offered for his non-appearance, the judge may issue a warrant for the arrest of the putative father to have him brought before any judge.

(5) Where a putative father is brought before a judge upon a warrant, the judge may bind him over to appear at the hearing of the complaint, and

- (a) require that a surety or sureties be procured or produced and join in the recognizance, or
- (b) require that a sum of money be deposited with the judge sufficient to ensure the appearance of the putative father at the hearing of the complaint, or
- (c) upon being satisfied that the ends of justice would otherwise be defeated, commit the putative father to prison until the hearing of the complaint.

76. (1) Where a putative father

- (a) upon whom a summons has been served, or
- (b) who has given his recognizance to appear,

fails to appear at a hearing of the complaint, the judge, upon the application of the person who made the complaint and after hearing the evidence adduced before him, may make any order that he may have made had the putative father appeared at the hearing.

(2) Where a judge makes an order against a putative father who failed to appear in accordance with his recognizance, the judge may also direct that all or a part of the amount of the recognizance be applied in satisfaction of the order or in such other way as the judge may direct.

(3) On the application of a person against whom an order was made pursuant to subsection (1) within thirty days of the making of the order, a judge may, in his discretion, direct a rehearing and may confirm or reverse, and if confirmed vary, any order so made but no costs shall be awarded to the applicant.

77. A judge shall exclude from the room where a complaint is being heard under this Part all persons other than the complainant, the mother, the putative father, any

78. Order declaring paternity. The present section 101 (1) in part and section 102 (2).

79. Rules of evidence. Subsections (1) and (2) are the present section 106. Subsections (3), (4) and (5) are new.

welfare worker connected with the case, the Director or his representative and the counsel and such other persons as the judge in his discretion permits.

78. (1) Where the judge hearing a complaint is satisfied that the putative father caused the pregnancy of the mother the judge may make an order declaring him to be the father for the purposes of this Part.

(2) Where more than one person is named in a complaint as a putative father and if the judge hearing the complaint

(a) is satisfied that the pregnancy of the mother was caused by any one of a number of the persons named as putative fathers, but

(b) is unable to determine which one of that number actually caused the pregnancy,

the judge may make an order declaring all of those persons he is satisfied could have caused the pregnancy to be the father for the purposes of this Part, the provisions of this Part apply, *mutatis mutandis*, to each of them.

79. (1) An order shall not be made upon the evidence of the mother unless her evidence as to the paternity of the child is corroborated by some other material evidence implicating the putative father.

(2) Notwithstanding any other law to the contrary, in all proceedings under this Part a married woman is a competent and compellable witness to testify as to the paternity of her child in respect of whom the proceedings are taken.

(3) A putative father is a competent and compellable witness in proceedings under this Part, and if called as a witness by the applicant he may, with leave of the judge, be cross-examined by or on behalf of the applicant but the applicant is not by reason only of such call bound by his testimony.

(4) Any testimony given by a putative father when called as a witness by the applicant in proceedings under this Part and which tends to show that he had sexual intercourse with any person is not admissible in evidence against him in any matrimonial cause to which he is a party.

(5) A form of agreement as mentioned in subsection (1) of section 70

(a) purportedly signed by the putative father, and

(b) whether or not it is signed by the Director and the mother, or either of them,

shall be admitted in evidence in any proceedings under this Part as proof of the admissions contained therein, without proof of the signature.

80. Order for payment of maintenance, etc. Subsection (1) is the present section 101 (1) in part and (3). Subsections (2) and (3) are new. Subsection (4) is the present section 101 (6).

81. Nature of payments and conditions governing determination of amounts. The present sections 101 (1) in part, 101 (2), 103 and 101 (7).

80. (1) Where an order is made under section 78, a judge may, by order, require

- (a) the person or persons declared to be the father, and
- (b) the mother, if the judge determines that she should contribute toward the expenses,

to pay the whole or any part of all or any of the expenses referred to in section 81 in such proportion as the judge considers just.

(2) Where

- (a) no order has been made under section 78 and no agreement by the mother pursuant to section 70 exists, or
- (b) an order or agreement exists but does not provide for the payment in full of all or any of the expenses referred to in section 81,

a complaint may be made against the mother and upon the hearing the judge, if he determines that she should contribute toward the expenses may, by order, require her to pay the whole or any part of any of the expenses set out in section 81.

(3) In so far as they are applicable, the provisions of this Part respecting the procedure on complaints against putative fathers apply *mutatis mutandis* to a complaint against a mother under subsection (2).

(4) At any time after a complaint is made a judge may examine, under oath and as a part of the proceedings, a putative father or a declared father and the mother, as to his or her means.

81. (1) An order or agreement may provide for the payment of the following expenses:

- (a) the reasonable expenses for the maintenance and care, medical and otherwise of the mother
 - (i) during a period not exceeding three months preceding the birth of the child or the termination of the mother's pregnancy,
 - (ii) at the birth of the child or the termination of the mother's pregnancy, and
 - (iii) during such period after the birth of the child or the termination of the mother's pregnancy as is deemed necessary as a consequence of the birth of the child or the termination of the mother's pregnancy;
- (b) a monthly sum of money towards the maintenance and education of the child until the child attains the age of sixteen years, or until the child attains the age of eighteen years if he is attending school or is mentally or physically incapable of earning his own living;

82. Application to vary order may be made. The present section
104 (1). Subsection (3) is new.

- (c) the amount necessarily expended upon the care and maintenance of the child or the value of the necessities supplied to the child, as the case may be, before the date of the order or agreement;
 - (d) the expenses of the burial of the mother if she dies at or in consequence of the birth of the child or the termination of the pregnancy;
 - (e) the expenses of the burial of the child if the child dies before the making of the order or agreement;
 - (f) the costs of all proceedings taken under this Part.
- (2) In determining which amounts and how much of any amount a person is to pay under an order or agreement, consideration shall be given to
- (a) the ability of the mother to provide it, and
 - (b) the ability of a person declared to be a father or the putative father, as the case may be, to provide it and at the same time provide for the proper subsistence of his wife and legitimate children, if any, and for the education of the latter.
- (3) The amount fixed by an order or agreement for the maintenance of a child shall be such as will enable the child to be maintained at a reasonable standard of living, consideration being given to the probable standard of living the child would have enjoyed had he been born to his parents in lawful wedlock.
- (4) An order or agreement may provide that the liability of a person for the amounts referred to in subsection (1) will be finally satisfied upon the payment of a specified sum, although by the terms of the order or agreement the specified sum is payable in periodic instalments.

82. (1) From time to time, an application to vary an order or agreement may be made to a judge by

- (a) a person required to make a payment under the order or agreement, or
- (b) the mother of the child, or
- (c) the next friend or guardian of the child, or
- (d) the Director.

(2) Upon such proof as he considers satisfactory

- (a) that there has been a substantial alteration in respect of
 - (i) the means of either parent, or
 - (ii) the needs of the child, or
 - (iii) the cost of living since the making of the order or agreement or the latest subsequent order varying either an order or an agreement,
 or
- (b) that the father named in the order or agreement is, owing to the terms of the order or agreement, un-

83. Automatic termination of order and provision for extension.
The present section 104 (2), (3), (4) and (5). Subsections (3) and (4) are new.

able to provide the proper subsistence for his wife and legitimate children, if any, and for the education of the latter,

a judge may vary the original order or agreement, or subsequent order so made.

(3) Except with respect to an application by the Director, an order under this section may not vary the total amount of the specified sum to be paid under an order or agreement by which liability is to be finally satisfied upon the payment of a specified sum.

83. (1) The provisions in an order or agreement for payment of a monthly sum towards the maintenance and education of a child terminate

- (a) on the death or adoption of the child, or
- (b) on the marriage of the mother when the child is retained in her custody and under her care and control, or
- (c) in the case of a mother who was a married woman living apart from her husband, on the resumption of cohabitation with her husband when the child is retained in her custody and under her care and control.

(2) Notwithstanding subsection (1), after

- (a) the marriage of a mother, or
- (b) the resumption of cohabitation with her husband by a mother,

who has retained the child in her custody and under her care and control an application may be made to a judge to reinstate or reinstate and vary the provisions of an order or agreement terminated pursuant to subsection (1).

(3) Where

- (a) a mother marries, or
- (b) a mother resumes cohabitation with her husband, and the child was not retained or at any time thereafter ceased to be retained in her custody or under her care and control, an application may be made to a judge to terminate or vary the provisions of an order or agreement requiring the payment of a monthly sum towards the maintenance and education of the child.

(4) At any time after an order is made under this section a further application may be made to a judge to vary or terminate that order.

(5) An application under this section may be made by any of the persons mentioned in subsection (1) of section 82.

(6) Upon an application being made under this section, a judge may make such order as he considers to be in the best interests of the child, consideration being given to the

84. Security for performance of order may be required. The present section 105.

85. Disposition of moneys payable under an order or agreement. The present sections 109 and 110 (3) and (4).

86. Enforcement of payments. Subsections (1) and (2) are the present section 110 (1) and (2). Subsections (3), (4) and (5) are new.

provisions of subsections (2) and (3) of section 81, of subsection (2) of section 82 and of this section.

(7) This section does not apply to an order or an agreement by which liability is to be finally satisfied upon the payment of a specified sum.

84. (1) Where an order is made or varied, the judge may after inquiry into the means of the person against whom the order is made, require him to furnish such security for the future performance of the provisions of the order as the judge directs.

(2) If the person against whom the order is made fails to furnish the security required, the judge may forthwith commit him to gaol there to be imprisoned for a term of not more than twelve months or until he furnishes the security and pays the costs and charges of commitment and of conveying him to gaol.

85. (1) Any amount to be paid under an order or agreement shall be paid to the Director or to such person as the Director directs.

(2) The Director shall ensure that the moneys collected under an order or agreement are paid out and applied for the purposes specified in the order or agreement, but

- (a) the Director may cause any of the moneys to be paid out in such amounts and at such times as the Director considers reasonable, and
- (b) where any public funds have been or are being spent on any of the expenses mentioned in section 81, the Director may pay into the General Revenue Fund a like amount collected under the order or agreement.

(3) Where funds have been paid under an order or agreement to the Director and the Director is unable to pay out the funds for the purpose intended due to the death of the child or other reason, the funds remaining in the hands of the Director shall, in his discretion, be repaid to the person who paid the money or forfeited to the Crown, unless otherwise ordered by a judge.

86. (1) The Director shall take such action as he considers necessary to collect any moneys payable under an order or an agreement, including the taking of proceedings for the enforcement of the order or agreement and the realizing upon any security given by the person against whom an order was made.

(2) Proceedings for the enforcement of an order or agreement may be taken by the Director in accordance with *The Alimony Orders Enforcement Act*, and for the purposes of that Act an agreement is deemed to be an order.

87. Liability of estate of deceased father. The present section 112.

(3) In any proceedings for the enforcement of an order or agreement an affidavit of any official of the Department

(a) stating there is a default in payment by the persons against whom the proceedings are brought, and

(b) stating the amount of the default,
shall be admitted in evidence as *prima facie* proof of the facts stated therein, without proof of the authority or signature of the person swearing the affidavit.

(4) In addition to the powers he may exercise under *The Alimony Orders Enforcement Act*, a judge, if he is satisfied

(a) that a person required to make a payment under the order or agreement has the means to comply with the terms of the order or agreement, and

(b) that no application to vary the terms of the order or agreement is being heard,

may order that in default of payment of a specified sum on or before a specified date the person be committed to gaol there to be imprisoned for a term of not more than three months or until he pays the amount set out in the order and pays the charges of commitment and conveying him to gaol.

(5) An order or agreement may be registered in any land titles office and the registration so long as the order or agreement remains in force

(a) binds the estate and interest of every description that the person required to make a payment thereunder has in any lands in the land registration district where the registration is made, and

(b) operates thereon in the same manner and with the same effect as a registration of a charge by the person required to make a payment thereunder of a life annuity on his lands.

87. (1) An order made against a declared father or an agreement entered into by a putative father binds his estate after his death, and each sum payable thereunder is a debt due from and chargeable upon the estate of the father and recoverable at the suit of the Director.

(2) Notwithstanding subsection (1), an order or agreement is, with respect to any payment falling due before or after a declared or putative father's death, subject to review as provided in sections 82 and 83.

(3) After the death of a declared or putative father no action or other proceedings shall be taken against his estate on the order or agreement without the leave of a judge granted on notice to the widow and legitimate children of the father, except those children who are under the care of and living with the widow.

88. For the purpose of enforcement in other jurisdictions an order may be issued with respect to payments under an agreement. New.

89. Duties of clerk of the court. The present sections 111 (1) and 104 (4).

90. Reconsideration of previous decisions. New.

91. Application of Part to persons under 21. New.

(4) Where it appears to a judge that the terms of the order or agreement cannot be carried out without depriving the widow or legitimate children of a declared or putative father of proper subsistence and education, the judge shall vary the order or agreement to such an extent and in such manner that the widow of the father and his children born in wedlock, if any, will be properly provided for before a child born out of wedlock.

88. (1) Upon the failure on the part of a putative father to comply with the terms of an agreement with respect to the making of payments for maintenance and when the putative father has left the Province, the Director may apply to a judge for an order against the putative father with respect to payments in arrears and terms of payment in the future.

(2) The judge shall issue a summons to the putative father in which he shall set out the facts of the application and the date and time at which the application will be heard.

(3) The judge may direct the manner in which the summons is to be served, and where the putative father has departed from the jurisdiction of the court after the making of the agreement, notice to the putative father by double registered mail mailed not less than twenty days prior to the date of the hearing is sufficient service of the summons.

(4) On the date set for the hearing the judge, upon receiving satisfactory proof of service may, in the presence of or in the absence of the putative father, make an order concerning the payment of any maintenance payments due at the date of the hearing and setting out terms of future maintenance payments consistent with the terms of the agreement.

89. (1) Every complaint and every order made shall be filed with the clerk of the district court, who shall keep a record thereof in the same manner as he is required to do in connection with civil proceedings or in such other manner as may be provided by the regulations.

(2) The clerk of the district court shall forthwith transmit a certified copy of every order filed with him to the Director.

90. Where an order has been made or an application for an order has been dismissed, a judge may, on the discovery of new evidence or of fraud, grant leave to re-open and may re-open and consider a previous decision.

91. All the provisions of this Part are applicable for or against a mother or a putative or declared father even

92. Other remedies not affected. New.

93. Duties of municipalities. This section sets out certain municipal duties found in sections 10, 19 and 56 of the present Act. Subsection (1) provides for the termination of these duties over a period of time as these duties are assumed by the Government.

though under the age of twenty-one years, but a judge in his discretion may appoint the Public Trustee or other person to safeguard his or her interests before the court.

92. Nothing in this Part takes away or abridges any right of action or remedy which without this Part might have been maintained against the father of a child born out of wedlock.

PART 5

TRANSITIONAL PROVISIONS AND CONSEQUENTIAL AMENDMENTS

93. (1) Any duty, responsibility or function imposed upon a municipality or its employees by this section shall terminate when the Minister, through arrangements with the municipality, provides for the assumption of that duty, responsibility or function by the Government.

(2) Subject to subsection (1), each municipality, other than an improvement district or special area, shall appoint one or more persons to be child welfare workers for the purposes of Parts 1 and 2 of this Act, and notice of each appointment shall be given forthwith to the Commission.

(3) A child welfare worker appointed under this section may not exercise any of the powers given by this Act unless his appointment is approved by the Commission.

(4) Where the Commission is satisfied that a child welfare worker appointed under this section has not adopted or is not maintaining the standards and methods of work prescribed by the Commission then the Commission

- (a) may withdraw its approval of the appointment of the child welfare worker, or
- (b) may refuse to renew the approval of such a person as a child welfare worker when the municipality applies for the renewal of the approval.

(5) A child welfare worker appointed under this section is responsible within the boundaries of the municipality appointing him for

- (a) investigating allegations or evidence that children may be in need of protection,
- (b) protecting children where necessary,
- (c) providing guidance, counselling and other services to families for protecting children or for the prevention of circumstances requiring the protection of children,
- (d) providing supervision for children assigned for supervision under this or any other Act, and

94. Sections 58 to 62 of the present Child Welfare Act contain provisions governing the employment of children and section 55 authorizes municipal by-laws in respect of employment in certain occupations. In addition, section 34 of The Alberta Labour Act authorizes regulations on the same subject. These various provisions to some extent overlap or are inconsistent with each other. This amendment to The Alberta Labour Act (together with the dropping of some of the provisions in the present Child Welfare Act) will remove the duplications and conflicts.

(e) assisting unmarried parents and their children, and shall do such other things as may be necessary for the enforcement of this Act within the municipality.

(6) Subsection (5) in no way prevents or hinders the Department from providing any of the services mentioned therein where it becomes necessary to provide the services to any person or family within a municipality where there is reason to believe the withholding of the services might cause unreasonable distress.

(7) Subject to subsection (1), each municipality shall provide and maintain one or more places for neglected children to be known as shelters, and which shall be entirely separate and distinct from an institution and which shall not be used as a permanent residence for a child, but for his temporary care during such period as is absolutely necessary.

(8) Notwithstanding subsection (7) and with the approval of the Director of Welfare Homes

- (a) an institution may, with the consent of the governing body thereof, be used as a shelter within the meaning of subsection (1), or
- (b) a shelter within the meaning of subsection (1) may be established in a private home.

(9) No neglected child shall be refused admittance to a shelter when accompanied by any inspector, constable or peace officer, or by the Director or a person authorized by the Director.

(10) Subject to subsection (1), the Director may require a city to make provision for the establishment of an observation home within the city for the reception, examination and treatment of neglected children or of children apprehended as neglected children.

94. *The Alberta Labour Act* is amended as to section 34 by striking out subsection (3) and by substituting the following:

(3) Notwithstanding subsection (1), the Lieutenant Governor in Council may by regulation

- (a) permit the employment of children in specific occupations and impose such conditions with respect to employment of children in any such occupation as he considers proper,
- (b) prohibit the employment of persons of fifteen to eighteen years of age in any occupation that he considers likely to be injurious to life, limbs, health, education or morals, and
- (c) impose such conditions with respect to the employment of persons of fifteen to eighteen years of age in any specific occupation as he considers proper.

95. Section 86 of the present Child Welfare Act is moved to The Legitimacy Act where it more properly belongs. Section 2 of that Act provides that a child born out of wedlock is deemed to be legitimate from birth on the subsequent intermarriage of his parents.

96. Section 10 of The Vital Statistics Act, 1959 is revised to relate its provisions to the changes being made in Part 3 of this Bill. Section 10a incorporates into that Act provisions found in section 90 of the present Child Welfare Act. The section 30a being added is section 95 of the present Child Welfare Act.

95. *The Legitimacy Act* is amended as to section 2 by adding the following subsection:

(3) Subsection (1) does not apply where, before the inter-marriage of his parents, an order of adoption is made in respect of the person.

96. *The Vital Statistics Act, 1959* is amended

(a) by striking out section 10 and by substituting the following:

10. (1) Upon receipt of a certified copy of an order of adoption transmitted under Part 3 of *The Child Welfare Act, 1966*, the Director shall register the adoption by endorsing his signature on the copy and thereupon the copy constitutes the registration of the adoption.

(2) Where, at the time of the registration of the adoption, or any time thereafter, there is in the office of the Director a registration of the birth of the person adopted, the Director, upon production of evidence satisfactory to him of the identity of the person, shall cause the substitution of a new registration of the birth in accordance with the facts contained in the order of adoption, as if the adopted person had

(a) on the date of birth recorded in the original registration, and

(b) at the place of birth recorded therein, been born in lawful wedlock to the adopting parent or parents and cause the original registration to be withdrawn from the registration files.

(3) Where a person is adopted pursuant to an order, judgment or decree of adoption made by a court of competent jurisdiction in another province, state or country, the Director,

(a) upon receipt of a certified copy of the order, judgment or decree, and

(b) upon production of evidence satisfactory to him of the identity of the person,

shall, if there is in his office a registration of the birth of that person, register the adoption in the manner prescribed by subsection (1), and shall cause the substitution of a new registration required by subsection (2).

(4) Where a person born outside the Province is adopted pursuant to *The Child Welfare Act, 1966*, the Director shall transmit a certified copy of the order of adoption to the person having charge of the registration of births in the province, state or country in which the person was born.

(5) Where a person whose birth was registered before the twenty-fifth day of October, 1913, changed his name to, or was brought up under, the name of foster parents who had adopted him, by an adoption or foster agreement or otherwise, before the twenty-fifth day of October, 1913, the Director may, upon receipt of

- (a) the foster agreement or adoption agreement, if any,
- (b) a notarially certified copy of any such agreement, or
- (c) where no such written agreement exists or can be found, a statutory declaration in the prescribed form by the foster parents or the survivor of them or if neither is alive, by some person having personal knowledge of the facts, that the child was raised as the child of his foster parents,

alter the registration of that person's birth to accord with the name under which he was brought up by his foster parents so that the record of his birth may be recorded under his known or assumed as well as his natural name.

10a. (1) The Director shall maintain a special register on which shall be kept

- (a) the original registrations of birth withdrawn from the registration files pursuant to section 10, and
- (b) the copies of all orders, judgments and decrees received by him for the purposes of section 10, other than the copy required for the purposes of subsection (4) thereof.

(2) The Director may refer to the special register upon the request of an issuer, clergyman or marriage commissioner, within the meaning of *The Marriage Act*, for the purpose of determining, when one of the parties to a proposed marriage is an adopted child, whether the parties are within the forbidden degrees of consanguinity.

(3) Except as authorized by this section, the special register and any entry or information or documents contained therein shall not be made public or disclosed to any person except upon the order of a judge of the district court.

10b. Where a child born in the Province is adopted pursuant to the laws of the Province or of another jurisdiction and a new registration has been made pursuant to section 10, any certificate of birth of that child subsequently issued by the Director

97. Repeal of chapter 39 of the Revised Statutes.

98. Commencement of Act.

- (a) shall be in accordance with the new registration, and
 - (b) in any case where parentage is shown, shall indicate the legal parents in accordance with subsections (1) and (2) of section 58 of *The Child Welfare Act, 1966*,
and nothing shall appear on any certificate issued by the Director that would disclose that the child is an adopted child.
- (b) by adding the following section after section 30:
- 30a.** The Director shall as soon as possible
- (a) give notice to the Director of Child Welfare of the birth of a child out of wedlock that is registered in his office,
 - (b) give notice of the birth of a child that has been registered in such manner as to suggest that the parents were at the time of registration unmarried or unknown, and
 - (c) furnish to the Director of Child Welfare such particulars as to the birth of the child as he may require.

97. This Act repeals and replaces *The Child Welfare Act*.

98. This Act comes into force on the first day of July, 1966.

No. 10

THIRD SESSION
FIFTEENTH LEGISLATURE
14 ELIZABETH II
1966

BILL

An Act respecting Child Welfare

Received and read the

First time

Second time

Third time

HON. MR. HALMRAST
