THE "BASTARD" IN THE CONFLICT OF LAWS—A NATIONAL DISGRACE

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AN UNWED mother brings suit in New York, the state of her domicile, to establish the defendant's paternity and to obtain support for her child.¹ The defendant, a Chicago attorney, claims that he is "forever" protected against such a suit by an agreement which he concluded with the mother after the child's birth. Having given her \$2,000, he undertook to pay \$275 a month for the support of the child for 16 years on the understanding that such payments would not "constitute an admission" of paternity, and that he would henceforth be released "from all manner of actions. . . ."²

Under New York law such an agreement would, in the absence of court approval, have been ineffective regarding the child's support and, probably, even with such approval as to a subsequent suit to establish paternity.³ Nevertheless, the New York Court of Appeals upheld the agreement under the law of Illinois and dismissed the suit. That law, which then did not require court approval for settlements exceeding \$800,⁴ was held applicable as agreed upon by the parties and under the "more modern view" of conflicts law which lays emphasis on "'the most significant contacts with the matter in dispute.'" ⁵ Such contacts were found concentrated in Illinois because the agreement had (incorrectly) designated that state as that of the parties' residence,

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¹ Suit was brought under N.Y.C. CRIM. CTS. ACT § 64 "to establish the paternity of the child and to compel support." *Haag v. Barnes*, 11 App. Div. 2d 430, 207 N.Y.S.2d 624, 626 (1960), *aff'd*, 9 N.Y.2d 554, 216 N.Y.S.2d 65, 175 N.E.2d 441 (1961).

² *Haag v. Barnes*, *supra* note 1, at 557-58, 216 N.Y.S.2d at 67, 175 N.E.2d at 442.

³ N.Y.C. CRIM. CTS. ACT § 63 (3) provides that "complete performance of the agreement . . . , when so approved, shall bar other remedies of the mother or child for support." (Emphasis added.) See also N.Y. DOM. REL. CT. ACT § 121 (3); *Bancroft v. Court of Special Sessions*, 278 App. Div. 141, 103 N.Y.S.2d 779 (1951), *aff'd*, 303 N.Y. 728, 103 N.E.2d 344 (1951). *Rhyne v. Katleman*, 206 Misc. 202, 133 N.Y.S.2d 221 (1954), *aff'd*, 285 App. Div. 1140, 142 N.Y.S. 2d 365 (1955), giving effect to a Nevada compromise, did not involve a denial of admission of paternity.

⁴ The entire "Bastardy" chapter of the Illinois Statutes was repealed shortly after the agreement in *Haag v. Barnes*, 9 N.Y.2d 554, 216 N.Y.S.2d 65, 175 N.E.2d 441 (1961). ILL. ANN. STAT. ch. 106 3/4, § 65 (Smith-Hurd, Supp. 1961), would not permit, and, contrary to the view of the *Haag* court, has apparently retroactively invalidated this agreement. Cf. Feirich, *Paternity Act of 1957, Blessing or Blight?* 47 ILL. B.J. 824, 832 (1959), deploring the demise of the paternity settlement.

⁵ *Haag v. Barnes*, *supra* note 4, at 559, 216 N.Y.S.2d 68-69, 175 N.E.2d at 443.

and because Illinois was the state of the defendant's place of business (hardly a meaningful "contact"), of the child's birth (required by the defendant to occur in Chicago), of the residence of the parties' agents and attorneys (?), and of the place of payment (subject to arbitrary selection). The facts "that child and mother presently live in New York and that part of the 'liaison' took place in New York," as well as the fact that the mother apparently had also previously been resident and employed in New York,⁶ were held "of far less weight and significance."⁷

This conclusion illustrates the unavoidable arbitrariness of the "modern" test based on the "most significant relationship," now so unhappily ensconced in the (Draft) Second Restatement of the law of Conflict of Laws.⁸ Clearly under this test the court, at least as easily, could have decided for the plaintiff by finding the New York contacts to have been "most significant." By nevertheless choosing a law unfavorable to the plaintiff, this decision of one of our most distinguished courts, though perhaps at least partially justifiable on its particular facts,⁹ has exposed dramatically that ignominious anachronism in American law which continues to deprive the "bastard" of the dignity and comfort of being a father's child.¹⁰

The Church has always recognized the blood relationship of illegitimate parents. Although secular law has been thus humanized only in this century, in many foreign countries the problem is approaching its final solution, namely the complete equation of illegitimate birth to birth in lawful wedlock.¹¹ At

⁶ See *Haag v. Barnes*, 11 App. Div.2d 430, 207 N.Y.S.2d 624 (1960) (dissent).

⁷ *Haag v. Barnes*, 9 N.Y.2d 554, 560, 216 N.Y.S.2d 65, 69, 175 N.E.2d 441, 444 (1961).

⁸ RESTATEMENT (SECOND), CONFLICT OF LAWS § 332 (1960). See EHRENZWEIG, CONFLICT OF LAWS § 174 (4) (forthcoming ed. 1962); Cavers, *Re-restating the Conflict of Laws: The Chapter on Contracts*, in XXTH CENTURY COMPARATIVE AND CONFLICTS LAW 349-64 (1961); Leflar, *Conflict of Laws, Contracts, and the New Restatement*, 15 ARK. L. REV. 163 (1961); Weintraub, *The Contracts Proposals of the Second Restatement of Conflict of Laws—A Critique*, 46 IOWA L. REV. 713 (1961).

⁹ The court stressed the fact that the defendant had "provided sums far in excess of his agreement." *Haag v. Barnes*, 9 N.Y. 2d 554, 558, 216 N.Y.S.2d 65, 67, 175 N.E.2d 441, 443 (1961).

¹⁰ 2 ARMSTRONG, CALIFORNIA FAMILY LAW 908, 949 (1953); FREUND, ILLEGITIMACY LAWS OF THE UNITED STATES (1919); HARPER, PROBLEMS OF THE FAMILY 119-34 (1952); Robbins and Deák, *The Familial Property Rights of Illegitimate Children: A Comparative Study*, 30 COLUM. L. REV. 308 (1930); Wysonog, *The Jurisprudence of Labels—Bastardy as a Case in Point*, 39 NEB. L. REV. 648 (1960); Notes, 1 AM. J. COMP. L. 124-28 (1952); 38 B.U.L. REV. 299 (1958); 15 LA. L. REV. 221 (1954). Most of the conflicts literature deals with problems of legitimacy and legitimation rather than the treatment of illegitimate children. See, e.g., Ester, *Illegitimate Children and Conflict of Laws*, 36 IND. L. J. 163 (1961); Guttman, *Whither Legitimacy: An Investigation of the Choice of Law Rules to Determine the Status of Legitimacy*, 14 RUTGERS L. REV. 764 (1960); Note, 57 COLUM. L. REV. 580 (1957).

¹¹ See Arnholm, *The New Norwegian Legislation Relating to Parents and Children*, 3 SCAND. STUDIES IN LAW 9, 18 (1959); KEGEL, INTERNATIONALES PRIVATRECHT 295-305 (1960); NEUHAUS, DIE VERPFLICHTUNGEN DES UNEHELICHEN VATERS IM DEUTSCHEN INTERNATIONALEN PRIVATRECHT 36 (1953); Müller-Freienfels, *Zur kollisionsrechtlichen Behandlung*

least three of the United States and Puerto Rico have followed this lead.¹² And statutes of many other states have given the "bastard" rights to support and inheritance. But in the absence of popular awareness of the problem and continuing emphasis on the penal character of paternity proceedings legislative progress is likely to be slow.¹³

Over 220,000 illegitimate children were born in the United States in 1959. One out of twenty Americans is born as a "bastard."¹⁴ Although many and perhaps most of them later acquire full citizenship by adoption or legitimation, there are those, and they probably still count millions, who will never have a father; many of them because the mother was permitted by the law to barter away the paternity suit. In other countries every illegitimate child on his birth becomes the ward of the state which, through a special agency ex officio, will take every step to ascertain the father whether or not there is hope of his being able to furnish support.¹⁵ We have no such institution. Yet, in 1960, a leading magazine with world-wide circulation found the only "scandal of our paternity suits" in undue hardships caused to alleged illegitimate fathers.¹⁶

An unknown number of such fathers escape paternity suits by leaving the state where mother and child reside. That we have only a handful of cases dealing with the resulting conflicts situations, is no doubt largely explainable by the mothers' lack of funds and initiative. Pressure of public opinion will have to compel nationwide reform. The present paper is limited to such minor improvements as have been achieved by progressive courts in cases involving choice of law or jurisdiction in suits for the declaration of paternity and for support.

der Abstammungsklage, 4 ZEIT. FÜR DAS GESAMTE FAMILIENRECHT 147 (1957); Pfenniger, *Die Vaterschaftsklage im internationalen Privatrecht*, 53 SCHWEIZERISCHE JURISTEN-ZEITUNG 319 (1957); Pallard, *La filiation illégitime en droit international privé français*, 41 REVUE CRITIQUE DE DROIT INTERNATIONAL PRIVÉ 623 (1952). In this field communist countries can justly claim more consistent progress. See RÉCZEI, *INTERNATIONALES PRIVATRECHT* 373-75 (1960); Schmied, *Das Familienrecht der Volksdemokratien 1945-1951*, 17 ZEIT. FÜR AUSLÄNDISCHES UND INT. PRIVATRECHT 227, 239-42 (1952); Cigoj, *Die Gleichstellung der ehelichen und unehelichen Kinder im jugoslawischen Recht*, 23 ZEIT. FÜR AUSLÄNDISCHES UND INT. PRIVATRECHT 139 (1958).

¹² ARIZ. REV. STAT. ANN. § 14-206 (1956); N.D. CENT. CODE § 56-0105 (1960) (inheritance only); ORE. REV. STAT. § 109.060 (1959); P.R. LAWS ANN. tit. 31 § 441 (1955) See. *e.g.*, *Hazelett v. State*, 55 Ariz. 141, 99 P.2d 101 (1940); *Di Medio v. Port Norris Express Co.*, 176 A.2d 550 (N.J. Super. 1961).

¹³ See, *e.g.*, Comment, *Support of Children Born out of Wedlock: Virginia at the Crossroads*, 18 WASH. & LEE L. REV. 343 (1961). For a statutory survey, see Note, 26 BROOKLYN L. REV. 45, 76-79 (1960).

¹⁴ WORLD ALMANAC 300-01. (77th ed. 1962). At least 14 states do not state legitimacy in their birth records. I. U.S. DEPT. OF HEALTH, EDUCATION AND WELFARE ANN. REP. 14 (1958 ed. 1960). All figures are therefore based on estimates.

¹⁵ See *e.g.*, GEN. CIVIL CODE § 208 (Austria 1914).

¹⁶ Schatkin, *The Scandal of our Paternity Courts*, Reader's Digest, May 1960, p. 72.

A. PATERNITY SUITS

1. *Jurisdiction*

In the civil law world, the law's solicitude for the alleged illegitimate father suffered a decisive blow in 1912 when France abolished her ancient rule that had prohibited any "search for paternity."¹⁷ In this country the paternity suit has long been known. But an antiquated law of jurisdiction continues to create serious difficulties.

None of our jurisdictional categories can do full justice to both the child and the alleged father. The requirement and sufficiency of jurisdiction in personam would offer the father refuge in states far removed from the child's abode and needs, and, on the other hand, would expose him to being "caught" as a transient in any state.¹⁸ Similarly, jurisdiction in rem with its greater latitude of notice and hearing fails to secure sufficient protection to the innocent defendant. The weight of authority now points to a regime of personal jurisdiction.¹⁹ But fortunately this question is about to lose much of its significance. On the one hand, the plaintiff probably will soon be enabled to avail himself of a virtually nationwide personal jurisdiction in that either the state of the child's conception, birth or domicile will be regarded as the state creating the "cause of action." And, on the other hand, the defendant will ultimately be able to escape any hardship that might be imposed on him under such a scheme of jurisdiction, by invoking the doctrine of forum non conveniens.²⁰

In other respects, too, jurisdictional limitations seem to be on the wane. Under many statutes only resident plaintiffs are entitled to sue, in keeping with a theory of the paternity suit as one primarily designed to protect the community against a public charge.²¹ Increasingly, however, protection of

¹⁷ CODE CIVIL art. 340 (Fr. Dalloz 1912), was modified by a statute of Nov. 6, 1912, permitting suit in cases of rape, seduction and concubinage. BATIFFOL, *PRINCIPES DE DROIT INTERNATIONAL PRIVÉ* § 486 (3d ed. 1959). Italian law limits such suits to cases of rape and abduction. See ZANNINI, *LA RICERCA DELLA PATERNITÀ NATURALE NEL DIRITTO INTERNAZIONALE PRIVATO*, STUDI PAVIA (1949). For other reasons Soviet Russia has reintroduced the prohibition of paternity suits and has, since 1944, left the care of illegitimate children to the state. See Valters, *Das Aussereheliche Kind im Neuen Sovjetrecht*, 70 J. BL. 230 (1948). On the differing laws of the other communist countries, see Seidl-Hohenveldern, Note, 2 AM. J. COMP. L. 246, 248 n.18 (1953).

¹⁸ See EHRENZWEIG, *CONFLICT OF LAWS* § 30 (forthcoming ed. 1962); Ehrenzweig, *The Transient Rule of Personal Jurisdiction: The "Power" Myth and Forum Conveniens*, 65 YALE L.J. 289 (1956); Symposium, Leflar, Cleary, Cowen, Schlesinger, Ehrenzweig, *Transient Jurisdiction—Remnant of Pennoyer v. Neff*, 9 J. PUB. L. 281-337 (1960). Where the proceedings are considered "criminal," courts may decline jurisdiction regarding children conceived outside the state. *Commonwealth v. Lanoue*, 326 Mass. 559, 95 N.E.2d 925 (1950) *But see* *State v. Tickle*, 238 N.C. 206, 77 S.E.2d 632 (1953), *cert. denied*, 346 U.S. 938 (1954).

¹⁹ *Hartford v. Superior Court*, 47 Cal. 2d 447, 304 P.2d 1 (1956). See Note, 30 SO. CAL. L. REV. 336 (1957). For the conflict of authority, see EHRENZWEIG, *CONFLICT OF LAWS* § 26 n.17 (forthcoming ed. 1962).

²⁰ EHRENZWEIG, *CONFLICT OF LAWS* § 33(4) (forthcoming ed. 1962).

²¹ *People v. Stoeckl*, 347 Mich. 1, 78 N.W.2d 640 (1956); *Carpenter v. Justices*, 283 App. Div. 212, 127 N.Y.S.2d 140 (1954). See generally Annot., 57 A.L.R.2d 689 (1958). On other limitations of procedural capacity, see Lasok, *Legitimation, Recognition and Affiliation Proceedings*, 10 INT. & COMP. L.Q. 123, 134-35 (1961).

nonresidents has been recognized as being within the proper purview of the paternity suit.²² Finally, we may note a lessening of that ambivalence in the enforcement of the rights of illegitimate children, which has expressed itself in refusals to recognize foreign decrees granting such rights. The penal or merely regulatory character of such decrees,²³ and their lack of finality concerning the adjudication of support,²⁴ have been invoked to support such refusals. But indications of a contrary trend²⁵ may foreshadow recognition under full faith and credit and comity at least as to the finding of paternity.

2. *Choice of Law*

The object of the paternity suit has undergone a fundamental change. From a remedy serving the punishment of the father,²⁶ or the recoupment from him by the parish,²⁷ this suit has come to be primarily concerned with the financial protection of the child. But though no doubt a step forward, even this concern, which remains that of the laws of many countries and most states of the Union, is anything but the final answer. Even now a support agreement may exclude a suit for the declaration of the defendant's paternity though this paternity is expressly denied in the agreement.²⁸ Several states have, therefore, provided for paternity proceedings independent from support claims. Indeed, the ultimate function of the suit must, beyond the child's financial protection, be that of a means to secure his complete equality with a legitimate child.

In conflicts cases it should be assumed that any state whose legislature has extended its solicitude for the "bastard's" interests beyond his financial security, would effectuate this policy without regard to any foreign law claimed to be "governing" the transaction. It is most regrettable that as late as 1961 as distinguished a court as the New York Court of Appeals has created new

²² *Pelak v. Karpa*, 146 Conn. 370, 151 A.2d 333 (1959); *Commonwealth v. Gross*, 324 Mass. 123, 85 N.E.2d 249 (1949); *State v. Tetreault*, 97 N.H. 260, 85 A.2d 386 (1952); *People ex rel. Robson v. Tannone*, 271 App. Div. 937, 67 N.Y.S.2d 370 (1947), 271 App. Div. 985, 69 N.Y.S.2d 335 (1947); *Yuin v. Hilton*, 165 Ohio St. 164, 134 N.E.2d 719 (1956); *Vezina v. Bodreau*, 86 R.I. 87, 133 A.2d 753 (1957). *But see* for a possible (and highly undesirable) exception of foreign citizens, *Feyler v. Mortimer*, 299 N.Y. 309, 87 N.E.2d 273 (1949), which was distinguished on the facts in *Duerr v. Wittmann*, 5 App. Div.2d 326, 171 N.Y.S.2d 444, 449 (1958). See also *Anon. v. Anon.*, 20 Misc.2d 131, 192 N.Y.S.2d 698 (Ct. Spec. Sess. 1959).

²³ EHRENZWEIG, *CONFLICT OF LAWS* § 56 n.15, § 84 (a) (forthcoming ed. 1962). See also Note, 1 AM. J. COMP. L. 124 (1952).

²⁴ See, e.g., *Kordoski v. Belanger*, 52 R.I. 268, 160 Atl. 205 (1932).

²⁵ *Peterson v. Paoli*, 44 So. 2d 639 (Fla. 1950); *State ex rel. Stone v. Helmer*, 21 Iowa 370 (1866). See generally Annot., 16 A.L.R.2d 1098 (1951); Lasok, *supra* note 21, at 138-40.

²⁶ See, e.g., MASS. ANN. LAWS ch. 273, § 12 (1956).

²⁷ English Poor Law Act, 18 Eliz., c. 3 (1576) (discretionary imposition of "sustentation" on "reputed Father").

²⁸ See *Haag v. Barnes*, 9 N.Y.2d 554, 557-58, 216 N.Y.S.2d 65, 67, 175 N.E.2d 441, 442 (1961).

doubt regarding this vital question by giving effect, contrary to the law of the forum and the child's domicile, to a foreign agreement aimed at foreclosing by fixed payments not only claims for additional support but also a suit to establish paternity.²⁹ We may hope, however, that this decision was primarily determined by what the court may have considered an inequitable and possibly extortionist demand for additional support, and that this ruling will not be construed to put the forum's policy regarding the absolute right to the establishment of paternity at the mercy of any foreign law that appears to permit the purchase of this right by the father.

Proof of intercourse generally creates a presumption of paternity. Rebuttal by blood tests has found varying recognition, and is likely to be subjected to the law of the forum as concerning a problem of procedure. In international conflicts cases the *exceptio plurium*, the defense of intercourse with others, may cause difficulty. Some countries have established a common liability of all men proved to have had intercourse with the mother during the critical period.³⁰ Others exclude the defense entirely³¹ on the ground that, though "this solution encourages a promiscuous mother to sue on behalf of her child the richest of her lovers, [it seems more important] to ensure that children born by such mothers are not worse off than other illegitimate children."³² Most countries permit the defense. Few conflicts cases have arisen abroad,³³ and none in this country. A "favor paternitatis," comparable to the favor *matrimonii* generally recognized in the conflicts law of marriage,³⁴ should result in the application of the law most favorable to the child.

B. SUPPORT CLAIMS

The Uniform Reciprocal Enforcement of Support Act, now adopted in all states but one, enables dependents to establish and collect support claims against deserting providers in a multistate procedure which has removed most jurisdictional obstacles.³⁵ Notwithstanding its many weaknesses,³⁶ this Act could be most useful to illegitimate children in that it makes the district attorney available for the interstate imposition and enforcement of support

²⁹ *Ibid.*

³⁰ On the law of Denmark, Iceland and Norway to this effect, see TOMFORDE, DIEFENBACH & WEBLER, *DAS RECHT DES UNEHELICHEN KINDES UND SEINER MUTTER IM IN- UND AUSLANDE* 34, 130 (1953). Soviet Russia now has joined those countries which exclude the defense. See Seidl-Hohenveldern, *supra* note 17, at 248; Lasok, *supra* note 21, at 135-37.

³¹ Austrian *Bürgerliches Gesetzbuch* (ABGB) § 163 (1933); Law of June 14, 1917 (Sweden).

³² Seidl-Hohenveldern, *supra* note 17, at 248. See also Lasok, *The "Exceptio Plurium Concomitium" in English Affiliation Proceedings*, 111. L.J. 736 (1961).

³³ Note, 1 AM. J. COMP. L. 124, 126-28 (1952).

³⁴ See Ehrenzweig, *Miscegenation in the Conflict of Laws*, 45 CORNELL L.Q. 659 (1960).

³⁵ EHRENZWEIG, *CONFLICT OF LAWS* §§ 82, 84 (forthcoming ed. 1962).

³⁶ *Id.* at § 143 nn. 12-22.

obligations. It seems, however, that the Act has not yet become known in those social strata in which the illegitimate child continues to present a serious problem. The progressing frustration of the "uniformity" of the Act by piecemeal amendment,³⁷ may, by endangering recognition of "reciprocity," compel fundamental reform.

Choice-of-law cases involving the support of illegitimate children seem to be rare³⁸ and virtually limited to agreements by which wealthy fathers attempt to acquit themselves of their obligations with the help of laws which continue to discriminate against the "bastard." Such laws resemble or follow the ill-drawn and ill-fated Uniform Illegitimacy Act, long since withdrawn by the Commissioners, which permits release agreements to "bar other remedies of the mother or child for the support and education of the child."³⁹ It is, of course, highly objectionable thus to deprive a child of his chance to have his changing needs satisfied by his father merely because, at one time, his mother granted a permanent discharge. Even judicial approval as required by the Uniform Act should never be given this effect. With regard to legitimate children only Georgia seems to permit the father thus to purchase his freedom from future obligations.⁴⁰ There is no reason why such a bargain should be permissible with regard to illegitimate children. A fortiori, where judicial approval is lacking, other states should deny recognition to such agreements as a matter of course, rather than consider "the failure to obtain the written consent of a judge . . . a mere formality insufficient . . . to invalidate the agreement."⁴¹ And judicial approval without specific statutory authorization should be disregarded everywhere since at least in such a case "a decree which purports to enable [the father] . . . to escape [his] . . . duty is beyond the power of a court to render."⁴²

C. SUMMARY

Pending further humanization and unification of the domestic laws of the several states, the following legislative and judicial measures could and should be taken at this time in conflicts cases:

³⁷ *Id.* at § 143 nn. 15-20.

³⁸ See, e.g., *Kowalski v. Wojtkowski*, 19 N.J. 247, 116 A.2d 5 (1955), which denied a mother's claim for expenses and support for an allegedly illegitimate child on the ground that the presumption of legitimacy under the law of the children's domicile prevailed. Where foreign laws are referred to, such reference is frequently gratuitous. See *Waunakee Canning Corp. v. Industrial Comm'n*, 268 Wis.2d 518, 68 N.W.2d 25, 30 (1955), where the court, interpreting its own statute, purported to rely on Mexican law to establish the child as a "lineal descendant."

³⁹ 9 UNIFORM LAWS ANNOT. XXI (1957), listing seven states as having adopted the Act. See, e.g., N.Y. DOM. REL. LAW § 121 (3); NEV. REV. STAT. § 126.060 (1960).

⁴⁰ See *Yarborough v. Yarborough*, 290 U.S. 202, 222 n.17 (1933).

⁴¹ *Haag v. Barnes*, 11 App. Div. 2d 430, 434, 207 N.Y.S.2d 624, 628 (1960), *aff'd*, 9 N.Y.2d 430, 216 N.Y.S.2d 65, 175 N.E.2d 441 (1961).

⁴² *Walder v. Walder*, 159 La. 231, 236, 105 So. 300, 302 (1925), quoted with approval in *State v. Woods*, 223 La. 495, 501, 66 So.2d 315, 316 (1953).

1. Courts permitted by their statutes to assume personal jurisdiction upon constructive service if the "cause of action" has arisen within the state, should not hesitate to assume that jurisdiction in suits for either declaration of paternity or support. States reluctant to grant such jurisdiction on a broad scale should enact special legislation at least with regard to such suits. Otherwise jurisdiction in rem based on the "res" of the alleged filiation could, as in divorce cases, furnish the vehicle needed to reach the absent father by constructive service at least in paternity suits.

2. Legislation permitting the mother, with or without court approval, to waive, on the child's behalf, the right to a declaration of paternity should be held unconstitutional as depriving the child of due process of law. On the same ground foreign agreements to this effect should be denied recognition.

3. Legislation permitting the mother to waive the child's right to support should be repealed or at least amended to require court approval. Foreign decrees approving such waivers should be refused recognition where a change of circumstances requires additional support. It must be assumed that the Supreme Court would not adhere to its contrary ruling in the *Yarborough* case.⁴³ Thus a long step would be taken toward the final elimination from American law of the ignominy of "bastardy."

⁴³ Cf. *Yarborough v. Yarborough*, 290 U.S. 200, 213 (1917) (Stone J., Cardozo J., dissenting).