

THE UNIVERSITY OF MANITOBA

A STUDY OF FREQUENCY OF COMMON-LAW UNIONS
AS A FACTOR IN DESERTED FAMILIES

Based on a study of Deserted
Families in the Greater Win-
nipeg area for October, 1957.

Being the Report of a Research Project
Submitted in Partial Fulfillment of the
Requirements for the Degree of Master of
Social Work.

by

Noelle Des Lauriers
Winnipeg, Manitoba
June, 1958



TABLE OF CONTENTS

	Page
LIST OF TABLES	ii
LIST OF ILLUSTRATIONS	iii
Chapter	
I. INTRODUCTION	1 - 11
Purpose and setting of the study	
Questions relating to desertion	
Organization of the remainder of the study	
II. REVIEW OF LITERATURE	12 - 17
Common-law unions in England	
Common-law unions in the United States	
Legal aspect of common-law unions in Canada	
III. REVIEW OF METHOD	18 - 25
Selection of case records for the study	
The questionnaire	
Collection of data	
IV. ANALYSIS OF RESULTS	26 - 45
Presentation of trends of desertion	
Comparison with the married group	
V. CONCLUSIONS	46 - 51
General observations about desertion in common-law unions	
BIBLIOGRAPHY	52 - 54

LIST OF TABLES

Table		Page
I	Sex of Deserters in Common-law Unions as Compared to Married Group	26
II	Number of Cases in Which Common-law Husband Previously Deserted as Compared to Married Group	29
III	Number of Cases in Which Common-law Wife Previously Deserted as Compared to Married Group	30
IV	Previous Marital Status of Common-law Husband as Compared to Married Group	31
V	Previous Marital Status of Common-law Wife as Compared to Married Group	32
VI	Manner in Which Previous Marriage of Men Dissolved in Common-law Group as Compared to Married Group	34
VII	Manner in Which Previous Marriage of Women Dissolved in Common-law Group as Compared to Married Group	35
VIII	Number of Cases in Which the Deserted Person in the Common-law Union Formed Another Common-law Union as Compared to Married Group	36
IX	Number of Cases in Which the Deserter from Common-law Union Formed Another Common-law Union as Compared to Married Group	37
X	The Bread-Winner at Time of Desertion in Common-law Unions as Compared to Married Group	39
XI	Number of Cases in Which Children Were Born Out of Common-law Union as Compared to Married Group	41
XII	Whereabouts of Children from Common-law Unions Compared to Children of Married Group	42

LIST OF ILLUSTRATIONS

Figure		Page
I	Number of Years in Common-law Union as Compared to Number of Years in Marriage Prior to Desertion	28

CHAPTER I

Desertion is often termed the "poor man's divorce."¹ Unlike divorce this is not a legal and a mutual separation agreed upon by the husband and wife who reach this decision together. In divorce the earning parent continues to assume the financial responsibility for his family and to give them some form of psychological support by his periodical contacts. In desertion only the deserting partner makes the decision to leave, and usually in a way that leaves no traces as to his whereabouts. By leaving in this manner he avoids his responsibility towards his family. The family, in turn, denied the financial and psychological support of this parent turns to a social agency or to the hands of relatives, or the remaining parent strives to keep the family together by filling the double role of parent and provider in the home.²

The increasing caseload due to desertion has been causing some concern in many social agencies across the country. A vast portion of public funds is being used each year

¹Jacob T. Zukerman, "The Role of the Public Agency with the Deserted Family," Public Welfare, XV, No. 3 (July, 1957), p. 101

²Frances Lomas Feldman, The Family in a Money World (New York: Family Service Association Press of America, 1907), p. 68

to support families which have broken down due to the fact that either the head of the family or the spouse have elected to run away from their duty to their family and society. Charles I. Schelland, United States Commissioner of Social Security stated that in 1956 desertion alone probably accounted for payments of about \$100,000,000.00 under the ADC program alone.¹

Legal action is not as effective as it might seem: it usually leads to repeated court action due to the failure of the deserter - here usually the husband - to conform to the court order. This causes further alienation between the couple. Legal action does not solve the problem of desertion as it does not attack the cause. Meanwhile the public pays for the maintenance of the family as its provider through desertion shows his unwillingness or inability to accept his responsibility.

In the large number of deserted families, we have a subgroup which mostly seems to have been disregarded or completely overlooked: these are the deserted families where the parents did not contract a legal marriage. These illegal unions exist because of the inability of either one or both partners being able to contract a legal union, or because both partners have just drifted together and began living as

¹Zukerman, loc. cit.

man and wife. These are known as the common-law unions.

The common-law unions are a small but quite interesting group of which little seems to be known. The question arises as to just what their place is in a study such as this and if they are not more prone to family break-downs.

This study will try to see if in the deserted families known to social agencies, there are not likely to be more common-law unions than legal marriages, and also if certain characteristics appear more frequently than in the married group.

This hypothesis brings to mind a series of questions which would be interesting to examine in order to find out more about this group of people.

Perhaps the first thing that one is apt to question is why these people are not married to each other. Divorce laws in Canada do not make it easy for a marriage to be dissolved. Religious beliefs could also be another factor. These impediments make it impossible for these people to contract any form of legal marriage and leave no choice but to live together in common-law if they decide to form their own household.

One could also ask if both the common-law husband and the common-law wife have not been going from one common-law

union to another and if this way of life has not merely been a pattern of living for them.

The length of time that the present common-law union has been in existence could also give clues as to the stability of the union.

The person who did the deserting is another point of interest which can be looked at. Also who was the breadwinner of the family. In cases where the breadwinner deserted, this could indicate an attempt to escape from a situation which he or she could no longer endure. From this we go on to examine whether both the deserted partner and the deserting partner have not gone on to form another common-law union.

One would also be curious as to the manner in which either the previous marriage or previous common-law union of both partners, if they were involved in these, came to an end: would it be by death, another desertion, separation, divorce, or in some other manner?

The last and not the least of the questions that come to mind are the children whose parents are involved in the common-law unions. The number of cases where there were children born prior to the formation of this union and also the whereabouts of all the children. It would be interesting to know if the children were with the remaining parent,

with relatives, or in the care of social agencies.

This study of desertions in the common-law unions is part of the research project on deserted families being done by the second year students of the School of Social Work of the University of Manitoba. The members of the Faculty of the School of Social Work held discussions with the various social agencies in the city of Winnipeg asking for suggestions. Mr. C. Patrick, Director of the City Public Welfare Department suggested the topic of desertion. His interest in this topic was caused by the heavy costs to the City for the maintenance of families where desertion has occurred. Also there was his former affiliation with the Canadian Welfare Council who were interested in the subject and who had abandoned the research which they had begun on this topic. At first it was thought that the research would be made at the City Public Welfare Department only, but because it was felt that other agencies could be interested, they were approached. All were willing to co-operate by allowing their records to be used, except the Juvenile Court. This agency had suffered a large staff turnover and the new workers were not familiar enough with the records to make the necessary selection of cases. The following Winnipeg social agencies which permitted the use of their records were: Winnipeg Children's Aid Society, Family Bureau, Family Court, Department of Health and Welfare, City Public Welfare Department, and Child

Guidance Clinic.

The records from the above agencies which were used were those of desertion cases which were active during the month of October, 1957. As the whole study had to be completed by May 1, 1958, it was felt that only the desertion records of that one month could be considered. The area chosen was that of the City of Winnipeg. The City Public Welfare Department provided the geographical boundary as this agency served the smallest area. It was felt that the time allotted and the area chosen would provide an adequate number of cases showing the various problems involved in desertion.

In considering the common-law unions involved in this study of desertions, the difficulty of setting a certain minimum time limit in which two people had lived together as man and wife was evident as no two agencies would consider this in the same way. In view of this fact there was no minimum time limit set and records which were considered to be those of common-law unions by the agency from which it originated was accepted as such.

There were various limitations which arose and which we could not overcome. The first to be mentioned is that we were unable to compare this small group of common-law unions against the total group of these unions. The only ones

of which we were aware were those which were receiving service from a social agency. We therefore had no way of knowing the complete position of this group in our society.

The other limitation was the quality of the agency records which were used for this study. Much of the information required could not be obtained due to the incomplete state of the records. In view of this fact answers are not given which, could they have been obtained, might have presented a different aspect. However, it must be remembered that these records are kept for the use and the purpose of the agency, and not for the purpose of research.

For the purpose of this study, certain terms which pertained to it were used in a very specific way. Desertion as used here is where there are couples living apart at any time during the month of October, 1957, except where they are living apart because of divorce or separation agreement. These included the following:

- a. where the partner had left wilfully and was not supporting his family;
- b. where the partner left wilfully but since then has received a court order for support;
- c. where the wife left with or without the children and of her own choice and did not follow it up with court action;

d. where the wife left with or without the children, took court action and the action went against her.

Excluded were families where:

- a. there existed mutual agreement to separate or divorce;
- b. separation was made by a court order.

Common-law union here has been used in the sense where there has been no license or wedding, but in which the man and woman have been living together as husband and wife and have been accepted as such by the community.¹

In this study when discussing people's inability to contract marriage it was used in the sense that it was because of a previous marriage of one or both of the partners involved in the common-law union had not been dissolved through death or divorce. We are aware of the fact that other reasons may exist as to why these persons did not contract marriage, such as the emotional causes as mentioned in "Community Planning for Human Services" by Bradley Buell and his Associates.²

As stated previously, the source of the data is the

¹Harold T. Christensen, Marriage Analysis, (New York: The Ronald Press Company, 1950), p. 279

²Bradley Buell et al., Community Planning for Human Services (New York: Columbia University Press, 1952), pp. 237-341.

records of the agencies already mentioned in the Greater Winnipeg area. These records were used in order to answer a specific questionnaire prepared by the students making this survey. The students themselves read these records and filled in the questionnaire. The complete records were used which included social histories, process recording, face sheet, and correspondence on the file.

In choosing the files to be read by the students, it was found that 773 cases were submitted for our perusal as desertion cases which were considered to be within our definition. This number was far too great for all of them to be read within the time allotted for the study. In view of this fact a third of the cases was picked by random sampling. This gave a total of 259 cases. This seemed a sufficient number to use for the study and would no doubt contain a sample of every possible case which could be encountered. It was found, however, when the reading of the records took place, that many had to be discarded due to the fact that either they did not lend themselves to our definition, or for other reasons such as not living in the Greater Winnipeg area. We were left with a total of 110 cases.

From this total number of desertion cases, twenty-one families were identified as common-law unions.

In order to attempt to give as clear and as accurate

a picture as possible, the statistical method was used. By this method, it was hoped to compare the desertions in the common-law unions as against the legally married group. These in turn where possible, were compared to a study made by Dorothy O'Rourke, on fifty family deserters for her thesis at Smith College in 1929.¹

After establishing the common-law cases we then examined separately the number of cases where both common-law husbands and common-law wives were involved in previous common-law unions.

The duration of the common-law union prior to desertion was then considered. An examination as to the number of wives as compared to husbands who deserted was looked into. We also examined who was considered the bread-winner in the family.

An examination was made as to how the husband who was involved in either a previous common-law union or a legal marriage freed himself from that union. The same examination was made for the wife.

When the whereabouts of the deserting partner was known, we tried to establish in how many cases he formed

¹Dorothy O'Rourke, "Fifty Family Deserters: An Inquiry into the Reasons for Their Desertions," Smith College Studies in Social Work, I, No. 4 (June, 1931), pp. 377-94

another common-law union after the desertion. The same was looked into for the deserted partner.

The children involved in these unions were examined. This was to establish the number of cases where there were children of previous unions involved or born out of the union. Finally the total number of children and their whereabouts were considered in order to see if they were with the deserted parent, a social agency, or other arrangements made for them such as living with relatives.

From this study, it was hoped only that some patterns would be found to exist in this kind of union.

CHAPTER II

In our modern society we have a tendency to frown on common-law unions. We even seem to feel that only those of a certain social level would get involved in this kind of union. We are apt to feel that this type of person would reside with his own kind in a certain neighborhood and no nice people would live there. This seems to be a general trend of thought even though the family next door who are very desirable people, well thought of by the whole neighborhood, whose children play with our children, may, for all we know have contracted such a union with his spouse due to certain impediments which made a legal marriage impossible. These facts are never publicized.

Common-law unions have not always been frowned upon by society.

In England until the passing of Lord Hardwicke's Act in 1753 (26 Geo.II; c 33) common-law unions were recognized by both the ecclesiastical courts which in the twelfth century established their jurisprudence over marriage, and also by the civil courts. In these courts a distinction was drawn between man and woman presently to become husband and wife in the future. A present agreement to become husband

and wife or an agreement to constitute such a relationship in the future, followed by sexual intercourse, created a marriage which the ecclesiastical court regarded as complete in substance but not in ceremony and the parties might be compelled to have the ceremony performed in "facie ecclesiae." If the marriage were so celebrated, the temporal courts would hold it good for the purpose "ab initio." The mutual assent of the parties constituted the "vinculum" and made the contract "verum matrimonium." But even without the subsequent performance of a religious ceremony the marriage was good for many purposes. Before the ceremony the woman was not entitled to a dowry, but the children of the marriage, while not entitled to inherit property, were regarded as legitimate.¹

The Act of Parliament of 1753 brought the marriage laws in line to the regulations which are in existence today.

In the United States, there is much uncertainty concerning the development of common-law marriages. The Act of 1753 did not apply to the dominions beyond the seas, and in most of the colonies there existed statutes which required that a marriage, to be valid, had to be performed in the

¹A. C. Jacobs, "Common Law Marriage," Encyclopaedia of the Social Sciences, ed. Edwin R. A. Seligman, IV (1931), p. 57

presence of a certain official.¹

It is interesting to note that at least one half of the American States are willing to recognize the validity of a marriage solely on the basis of the statement by a man and a woman that they are husband and wife.² It is felt though that by the means of a common-law marriage many marriages are upheld which otherwise, due to some impediment would be void, this also can be conducive to instability of marriage and can even go so far as to open the door to blackmail.³ After the death of a man it is frequently possible for his mistress to claim the rights of a common-law wife. On the other hand, if the claims based upon illicit relations are presented during the lives of the parties, a subsequent ceremonial marriage of one of them may be made bigamous and the children are bastardized.⁴

Canada does not seem at any time to have legally acknowledged common-law marriages. As a matter of fact, in one of our Manitoba Courts Chief Justice A.L. Dysart, Q.C. was heard to state that there was no such thing as common-law marriages: where there is an impediment to a marriage,

¹Ibid.

²Ibid.

³Ibid. pp. 57-58

⁴Ibid.

all that the person is doing is living in concubinage. Where no marriage is performed the people are living immorally.¹

Legally, participants in a common-law union can claim no actual rights to each others real or personal property unless in the case where a woman has cohabitated with a man for a period of one year or more, and should they separate or the man desert, she may within one year of the separation or desertion make application for support for herself and her child or children.²

Children born of these unions are considered born out of wedlock and may be registered under the father's name only by his written consent.

As far as the inheritance laws are concerned, children of these unions have no legal right to real or personal property which belong to their father should he die. However they can inherit from their mother their share of all real and personal property whether she dies testate or intestate.³

¹Chief Justice A.L. Dysart Q.C., Court of Appeal of Manitoba, judgment given in Queen's Bench Blanchet vs Hansel, Western Weekly Report 1943, Vol. III.

²Manitoba, The Wives and Children's Maintenance Act (R.S.M. 1954) cap. 294, sec. 6.

³Manitoba, Devolution of Estates Act (R.S.M. 1954) cap. 63, sec. 14.

Research projects conducted either by foundations or agencies do not seem to have looked into these unions or made any effort to find its meaning in our modern society. When mentioned it is only as part of a complete research study. In most cases it seems to be considered as a result of maladjustment and is merely another problem or a symptom of other problems. It is added to others such as ill-health, chronic dependency, mental disability and others.¹

In the research conducted in St. Paul by Bradley Buell and his associates, it was found that there was real evidence of a predisposing tendency toward behavior disorders in families with a history of mental, emotional and anti-social difficulties. This project revealed through its data that the impairments in family structure which result in broken homes create serious obstacles to successful adjustments. These broken homes were found four times as often among the group of families with the most complicated problems as among those with the least complicated.² However in dealing with maladjustment, they found as many others did, that they were handicapped by the term and all that it involves as to the degree required before a person is considered to be at the point where the community ser-

¹Elaine Walton, Let's Work Together in Community Service, Public Affairs Pamphlet No. 194.

²Buell, op. cit., pp. 269-70

vice can step in and claim a family to be maladjusted.

Maladjustment is an abstract term which can vary as to degree of meaning for each individual and for each social group depending on their concept of the term.

It is in view of this fact that, as common-law today is considered as an irregular form of union and is definitely considered immoral in certain communities, it can create social problems for those involved in these unions. In cases where no previous problems exist, this can create a problem, while in cases where emotional problems are already in existence, a common-law union merely adds to these pre-existing problems.

CHAPTER III

The records used for the purpose of this study have been those of the Winnipeg Children's Aid Society, Provincial Department of Health and Welfare, City Public Welfare Department, Child Guidance Clinic, Family Court, and Family Bureau. These records were those of clients who lived in the City of Winnipeg and which seemed to meet the original definition of desertion. In this original definition, desertion was considered to exist in cases where the couples had been living apart at any time during the month of October, 1957, except where they were living apart because of divorce or a separation agreement, unless this separation agreement broke down. The entire record was used in order to obtain the necessary information. This included the face sheet, process recording, social history and correspondence which was on the file. Also where necessary information could not be obtained from the file, but where the worker of the case was available, the information was obtained verbatim from the worker.

A total of 773 cases were submitted to the school by the agencies. This number of cases and the length of time in which to make the study made it impossible for the ten

students involved in this study to look at all of them in the time allotted for the study. In view of this fact the method of random sampling was used.

From the 773 cases, every third case was drawn. Care was taken that in the sample the proportion of cases from each agency was kept as in the original group submitted by the agencies. This gave a total of 259 cases. This seemed like an adequate number of cases to read and gave a fair representation of the whole group.

With these cases, a trial run of the schedule was made to see how much information could be obtained. The schedule was then revised and the reading of the case records began.

It was in the process of reading the records that it was realized that the definition of desertion was inadequate. Confusion seemed to exist as to apartness and non-support. It was in view of this that the definition was revised to its present form. This definition considered desertion where there were couples living apart at any time during the month of October, 1957, except where they were living apart because of divorce or separation agreement. These included:

- a. where the partner had left wilfully and was not supporting his family;

- b. where the partner left wilfully but since then has received a court order for support;
- c. where the wife left with or without the children and of her own choice and did not follow it up with court action;
- d. where the wife left with or without the children, took court action and the action went against her.

Excluded were families where:

- a. there existed mutual agreement to separate or divorce;
- b. separation was made by a court order.

With the new definition 148 cases were discarded.

This included cases where the residence of the client was out of the Greater Winnipeg area but which nevertheless had been submitted by the agencies. This left a total of 111 cases.

The records were read by the second year students of the School of Social Work, University of Manitoba. A questionnaire was filled for each case read. These questionnaires were then coded, transcribed on record sheets, then photostated on 111 small cards. It was then discovered that records number eight and number fifteen were identical and number eight was discarded. The total number of cases to work from was now 110. From this total number we found the following contributions from the agencies:

Provincial Department of Health and Welfare, eleven cases; Family Court, forty-six cases; City Public Welfare Department, thirty-four cases; Children's Aid Society of Greater Winnipeg, eight cases; Family Bureau, eleven cases. The total study is completed from these records.

In the 110 cases, twenty-one were found to be desertion cases from common-law unions which is the topic of this specific study. (Question fourteen). These twenty-one records were found to come from the following agencies: Family Court, four cases; City Public Welfare Department, twelve cases; Children's Aid Society of Greater Winnipeg, four cases; Family Bureau, one case.

After establishing the fact that these were common-law unions, it was then endeavored to establish the duration of this union in each case. (Question fifteen). This was considered from the time the common-law union was established to the time of desertion.

Who did the deserting was next looked into. (Question eleven). This was to see the number of cases where the husband was the deserter as compared to the number of cases where the wife deserted. This was an endeavor to establish the trend as to which seemed to have the predominance as to who was the usual deserter in these unions.

In questions sixteen and eighteen we tried to est-

establish a possible pattern of desertion of both husband and wife. We tried to establish whether these desertions were done on the spur of the moment, or if there had been a gradual weaning from the home and family by periodical short term desertions. The number of times these short term desertions took place and also any comments in the file pertaining to these desertions was examined in questions seventeen and nineteen. This again is for both husband and wife. Here it was hoped that a pattern could be seen and that one could also get some of the dynamics behind these previous short term desertions.

In questions twenty and twenty-two the previous marital status of both husband and wife was established. This was to see from what former ties, if any, these people came from. We were trying to see if they go from one common-law union to another, or were they merely establishing common-law unions due to impediments which did not allow them to contract a legal marriage. If they were going from one common-law union to another this could have indicated either inability or unwillingness to face the problems and the responsibility of a stable marriage.

Where husband or wife had a previous marriage, in questions twenty-one and twenty-three we tried to find out the manner in which this marriage broke down. We tried to establish if it were through desertion, divorce, separation,

death, or any other manner. By this the types of impediments to contracting a marriage to the last deserted partner could be established and would also show the reason for the common-law union. It would also show the predominant way in which the former union broke down.

In many cases the whereabouts of the deserting party is indicated in the file. We wondered in how many cases wanton desire was responsible for the desertion. The same could also apply for the deserted party. In questions twenty-four and twenty-six we tried to establish if the deserter had gone off to form another common-law union, and if so when after the desertion was it formed. We also looked into the possibility of the deserted party forming another common-law union for a short period after the desertion. Here again we tried to find out when after the desertion this took place. These were answered by questions twenty-five and twenty-seven.

Through questions thirty-six and forty-six we looked for indications as to who was the bread-winner in the union. This could perhaps indicate the more responsible party of the two as related to the person who deserted or stayed behind.

Lastly we looked into the children born within and out of the union (question fifty-six). It is to be wondered in

how many cases there are children involved, and in how many cases there are children not of the union.

In question fifty-eight we examined the whereabouts of these children. We tried to establish if they were with their mother, their father, relatives, friends of the parents, or apprehended by social agencies. In most cases it would be expected that these children were not planned for, and could result in a certain amount of rejection on the part of the parents. The knowledge of how many children were involved and their whereabouts could give us a clue as to the possible patterns which exists in these broken common-law families.

In setting up and studying the tables which showed the answers to the above questions, we compared them to the married group. This made a comparison of the twenty-one common-law families against the eighty-nine married group which were deserted and tried to see if there were any real significant difference between the two. Where possible these in turn were compared to the study made by Dorothy O'Rourke on the Fifty Deserted Families in Philadelphia in 1929.¹ In this study common-law unions were mentioned, and even though they were not looked into as a group, nevertheless there was some information which could serve as a norm for

¹O'Rourke, loc. cit.

certain questions in this particular study.

CHAPTER IV

In the tables shown below percentages have been extended to one decimal. To arrive at the 100 percent, when the remainder was over one half of the total, the last digit of the answer was raised by one figure.

It was found that the twenty-one common-law unions of this study formed 19.1 percent of the total group. Dorothy O'Rourke's study of fifty deserters in Philadelphia shows that in ten cases was the desertion made from a common-law union which makes 20 percent of her total group.¹

TABLE 1
SEX OF DESERTERS IN COMMON-LAW UNIONS
AS COMPARED TO MARRIED GROUP

Deserter	Common-law Unions		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Husband	17	81	68	76.4
Wife	3	14.2	20	22.5
Both	1	4.8	1	1.1

Out of the total of twenty-one cases, seventeen showed

¹O'Rourke, loc. cit., pp. 387-88.

the husband as being the deserter or 81 percent. This was a slightly higher percentage than the married group whose sixty-eight cases represented 76.4 percent. Miss O'Rourke's study had forty-one cases out of her fifty, or 82 percent where the man was the deserter.¹

Three cases only showed the wife as the deserter in the common-law union, or 14.2 percent of the cases. The legally married group showed twenty cases or 22.5 percent where women deserted. Miss O'Rourke's study had seven cases or 14 percent of the total group.²

The common-law group and the married group had one case each where both man and woman deserted the home. This represented 4.8 percent for the common-law group and 1.1 percent in the married group. None are shown in Miss O'Rourke's study.³

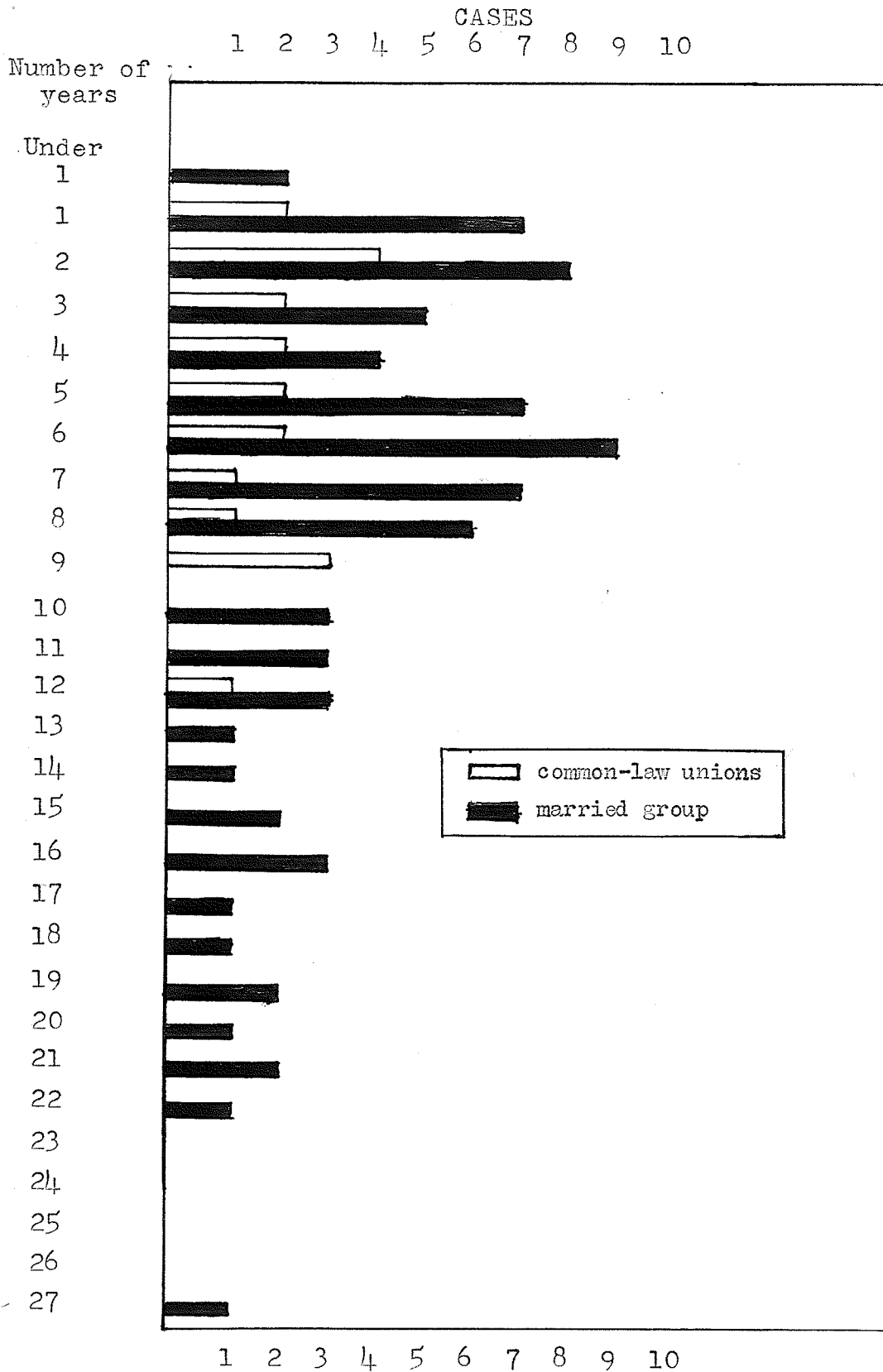
In figure one, as compared to the total group, only one common-law union had a desertion after ten years of cohabitation. This represented 4.8 percent of the group. The married group had twenty-one after the ten year period which was 23.6 percent of this group. In common-law the second year of cohabitation showed the largest number of

¹Ibid.

²Ibid.

³Ibid.

NUMBER OF YEARS IN COMMON-LAW UNION AS COMPARED TO
NUMBER OF YEARS IN MARRIAGE PRIOR TO DESERTION



desertions. This formed 19 percent of the group. In the married group the period which seemed to have the largest number was the sixth year of marriage where nine cases were recorded or 10.1 percent. The next largest group to desert seemed in the second year of marriage which had eight cases or 8.9 percent. The common-law group showed the ninth year as being the second largest group of deserters with three cases or 14.28 percent. In one case in the married group we found one desertion which took place after twenty-seven years of marriage.

TABLE 2

NUMBER OF CASES IN WHICH COMMON-LAW HUSBAND PREVIOUSLY DESERTED AS COMPARED TO MARRIED GROUP

Previous Desertion	Common-law Unions		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Previous Desertion	7	33.3	26	29.2
No Previous Desertion	7	33.3	42	47.2
Not Given	7	33.3	21	23.6

We found it rather difficult to assess if the man really did desert more often in the common-law group than in the married group. One third, or 33.3 percent of the study could not give any information and the married group had twenty-one cases or 23.6 percent where no information could

be obtained. It is to be noted that in the married group in one case both the husband and wife deserted, while in the common-law group in all cases where the husband had previously deserted, he was the one who did the ultimate desertion.

TABLE 3

NUMBER OF CASES IN WHICH THE COMMON-LAW WIFE PREVIOUSLY DESERTED AS COMPARED TO THE MARRIED GROUP

Previous Desertions	Common-law Unions		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Previous Desertions	5	23.8	9	10.1
No Previous Desertions	10	47.6	61	68.5
Not Given	6	28.6	19	21.4

Here also it was difficult to assess if more women in common-law unions tended to desert as compared to the married group. There were more answers in the negative obtained in both groups. However the large percentage in the category where no answers could be obtained destroyed the true picture. It was noted though, that in, the common-law group, in four cases where the women had short term desertions, it was their husband who did the final desertion. In one case where both husband and wife had previously deserted, both eventually made the final desertion. In one case

only where the woman had a previous short term desertion was she the one to make the final break.

In the married women group, in five cases where the women had made previous short periods of desertion, did the husband make the final desertion, while in four cases the women only had deserted and did the ultimate desertion.

In Miss O'Rourke's study of Fifty Deserters, she showed five previous desertions within the common-law group or 50 percent of the group. In the married group there were fourteen previous desertions or 35 percent of the group. She made no break down between the men and the women.¹

TABLE 4

PREVIOUS MARITAL STATUS OF COMMON-LAW HUSBAND
AS COMPARED TO MARRIED GROUP

Marital Status	Common-law Unions		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Previously married	7	33.3	4	4.5
Not Previously married	7	33.3	63	70.7
Not Given	7	33.3	22	24.8

This table shows that in seven cases or 33.3 percent of the common-law group the husband was involved in a pre-

¹Ibid.

vious marriage. It was found that in one case only where the common-law husband had previously been married was the wife the deserter, and this after nine years of cohabitation. In the six other cases the husband was the deserter.

In the married group, in four cases only did we find any previous marriages or 4.49 percent. In three of these cases the wife did the deserting.

In the common-law group these previous marriages could account for the establishment of the common-law union.

TABLE 5

PREVIOUS MARITAL STATUS OF COMMON-LAW WIFE
AS COMPARED TO MARRIED GROUP

Marital Status	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Previously married	14 ^a	66.7	3 ^a	3.4
Not Previously married	6	28.6	68	76.4
Not Given	1	4.7	18	20.2

^aIncluded one previous common-law union.

In this table there are fourteen women in the common-law unions who were previously married. One of these was a previous common-law union. In the married group three women

only had previous legal alliances one of which was a common-law union also. From these three cases in one case the woman was the deserter and in another case both husband and wife deserted. In the case where the woman was involved in the previous common-law union, she was the deserter. Such was the case also in the common-law group.

In the married group in two cases both husband and wife had been previously married - this included the case where the woman had the previous common-law union.

In Miss O'Rourke's study, there were six cases where either the husband or wife previously married in the common-law group, or 60 percent of the study. In the married group there were four cases or 10 percent with previous marital ties.¹

In table six at no time in the common-law group is death mentioned as a way in which the marriage was dissolved. In the five cases where information could be obtained there are three separations shown, with divorce and desertion accounting for the others. In the married group there are two divorces and two deaths. In the cases of the two divorces the women were the deserters. In the other two cases where death had dissolved the marriage, in one case the woman was the deserter.

¹Ibid.

TABLE 6

MANNER IN WHICH PREVIOUS MARRIAGE OF MEN DISSOLVED IN
COMMON-LAW GROUP AS COMPARED TO MARRIED GROUP

Marital Breakdown	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	7	100	4	100
Desertion	1	14.3		
Divorce	1	14.3	2	50
Separation	3	42.8		
Death			2	50
Not Given	2	28.6		

In the common-law group in the five cases where information could be obtained, the husband was the deserter from this last union.

In table seven separation seems predominant in the common-law group. In one case the woman had set up the common-law union with a man who was separated also. In two cases the men with whom they cohabitated had no previous legal ties. In the other two cases no information could be found for the men's previous status. In four cases the man deserted and in the other case it was the woman. In the divorce group, in two cases the common-law husband had no previous marital status, and in the other case his marriage had broken down through separation. In two of the cases the common-law husbands

TABLE 7

MANNER IN WHICH PREVIOUS MARRIAGE OF WOMEN DISSOLVED IN
COMMON-LAW GROUP AS COMPARED TO MARRIED GROUP

Marital Breakdown	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	14	100	3	100
Desertion	2	14.3		
Divorce	3	21.4		
Separation	5	35.7		
Death	3		2	66.6
Not Given	1	7.2	1	33.3

were the deserters. In the two cases where the women's previous marriage had broken down by desertion, we found that the two men were previously married, but have no knowledge as to how their marriage broke down.

In the married group, the previous marriages were dissolved by death in two cases. We have no information as to the third. In the one case the husband also had previously been married and his marriage had been dissolved by death also.

In Miss O'Rourke's study we found in five cases out of the ten common-law unions that previous marriages had taken place, but we have no information as to the manner in which

the marriage was dissolved. In the married group she shows four cases with previous marriages but again there is no further information. There is also no information as to which of the two parties had contracted the previous marriage.¹

TABLE 8

NUMBER OF CASES IN WHICH THE DESERTED PERSON IN THE COMMON-LAW UNION FORMED ANOTHER COMMON-LAW UNION AS COMPARED TO THE MARRIED GROUP

Common-law Status	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Formed Common-law Union	4	19	4	4.5
Did Not Form Common-law Union	13	61.9	65	73
Not Given	4	19	20	22.5

In the common-law unions we find four cases or 19 per cent where the deserted party did set up a short term common-law union. In these four cases, one man was the deserted party while the other three cases were women. In thirteen cases the remaining party did not establish another common-law union, while in four cases we have no information.

In the married group here again we have four desert-

¹Ibid.

ed persons who set up a short term common-law relationship. This forms 4.5 percent of the group. In two cases the men were the deserted party. In sixty-five cases or 73 percent the deserted party did not cohabit with anyone. In twenty cases we have no information.

In the common-law group, the short term cohabitations took place within one year of the desertion in two cases, while in another case it was four years later. In the fourth case we have no information. In the married group no information could be obtained as to when after desertion the short cohabitation took place.

TABLE 9

NUMBER OF CASES IN WHICH THE DESERTER FROM COMMON-LAW UNION FORMED ANOTHER COMMON-LAW UNION AS COMPARED TO THE MARRIED GROUP

Common-law Status	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Formed Common-law Union	1	4.7	22	25
Did Not Form Common-law Union	3	14.3	27	30
Not Given	17	81	40	45

Out of the twenty-one cases in the common-law unions

in only four cases were we able to find an actual record on the actions of the deserter after leaving his family. Of these four cases in only one case were we aware that a new common-law union was formed. In this case the woman was the deserter. The man himself had established a short common-law union within the present desertion. This had not lasted.

In the married group, in forty cases we were unable to obtain any information, but in twenty-two cases we found answers in the affirmative. This is 25 percent of the study. In eight of these cases the women were the deserters. It was also from this group that four of the deserted party found in the previous table formed short common-law unions.

In the common-law union, in the only case where the information was in the affirmative we were unable to find further information as to when the new common-law union was established.

In the married group, in eight cases we could obtain no answer as to when after the desertion the new common-law union was formed. In ten cases the new common-law union was formed immediately after the desertion. In one case it was formed eighteen months later; in another case there was a two year lapse; the fourth case began cohabitation four years later. In one case where the parties were immigrants the husband preceded the wife to this country. He set up a

common-law union three months before his wife and family came to join him. They came very much against his will.

In the cases where an immediate common-law union was established after desertion, in four cases the women were the deserters, while for the balance men were the deserters.

TABLE 10

THE BREAD-WINNER AT TIME OF DESERTION IN COMMON-LAW UNIONS AS COMPARED TO MARRIED GROUP

Bread Winner	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Husband Only Working	4	19	46	51.7
Wife Only Working	1	4.8	8	9
Both Working	2	9.5	7	7.9
Husband Unemployed, Wife not Working	5	23.8	14	15.7
Not Given	9	42.9	14	15.7

In the common-law group, in four cases only could the husband be truly called the bread-winner. That is in 19 percent of the cases. In all of these he was the deserter. In one case only was the wife the only wage earner. Here again the husband deserted. In the two cases where both were working the husband again was the deserter. Out of the five cases where neither were working, four of these

were in receipt of public assistance. Here again the men were the deserters.

In the married group, we found forty-six men as being the sole employed member of the family. Out of these in eleven cases the women were the deserters. In the eight cases where the women only were working, they were the deserters in three cases. In one of these cases the husband was retired which accounts for his unemployment.

In the seven cases where both man and woman were working, in three of these the women were the deserters. In the group of fourteen where neither husband nor wife were working, in one case only was the woman the deserter. In four of these cases are we aware of the family receiving public assistance.

In table eleven the common-law group has thirteen cases or 61.9 percent where there are children born out of the union. These children come from the cases where the women were previously married. In one case only were there children born out of the union while the man and woman were cohabitating. In seven cases all the children involved were born of the union. In one case no information could be obtained.

The married group showed seventeen cases with children involved which were not born of the union. This forms 19 per-

TABLE 11

NUMBER OF CASES IN WHICH CHILDREN WERE BORN OUT OF COMMON-LAW UNION AS COMPARED TO MARRIED GROUP

Status of Children	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	21	100	89	100
Children out of the Union	13	61.9	17	19
Children all of Union	7	33.3	62	69.6
No children			5	5.7
Not Given	1	4.8	5	5.7

cent of the group. In sixty-two cases or 69.6 percent all children involved were of the union. In five cases there were children but these were now adults and self supporting. In another five cases no information could be obtained.

In Miss O'Rourke's study in nine cases of the total group was there any mention of illegitimate pregnancy. This is 18 percent of the group. From these nine in three cases only did they involve the common-law group.¹

In table twelve the common-law group has a total of eighty-one children. In these fifty-two or 64.2 percent

¹Ibid.

TABLE 12

WHEREABOUTS OF CHILDREN FROM COMMON-LAW UNIONS
 COMPARED TO CHILDREN OF MARRIED GROUP

Whereabouts of Children	Common-law Group		Married Group	
	Number	Percent of Total	Number	Percent of Total
Total	81	100	226	100
Mother	52	64.2	174	76.9
Father			10	4.3
Relatives	4	4.9	3	1.2
Social Agencies	21	25.9	11	4.9
Other	2	2.5	14	6.2
Not Given	2	2.5	15	6.5

are with the mother. In one case the mother deserted but took the children along with her. Four children were placed with relatives; here in one case the woman deserted and left one child with her parents while she took the other with her. Twenty-one children are with social agencies. This forms 25.9 percent of the group. In one case both parents deserted the home and the children were apprehended. In another case, the woman only deserted but the children were all apprehended from the father.

In the married group, out of 226 children, 174 are with their mother or 76.9 percent. In thirteen of these cases the women were the deserters but they took the children

with them.

In the cases where the father had the children, four cases showed the women as deserters. In one case she took two of the children with her and left the other two to her husband.

The three children which were left with relatives, in one case the mother had two children but had placed the one child with the grandmother. Another case the mother had kept five children but placed the sixth with relatives.

Here only eleven children were with social agencies. This was one case where both parents deserted. In another the family seemed to be scattered; four children were with the mother, three with social agencies. In another case the mother deserted and the three children were apprehended.

In one of our questions where we were trying to establish the number of times the man deserted from the common-law union prior to the final desertion, no actual number of times could be found except in one case where the husband had deserted twice. However in the statements accompanying the other six cases it was found in four cases that although no actual numbers were given the man had deserted frequently. In another case, the common-law husband was in and out of the home, and the woman did bear his children, but as he was a construction worker he was out of the city for frequent

and lengthy intervals and came back for short periods only at which time the woman would get pregnant. Hewould then leave for another job.

In the married group among the comments picked up from the eight cases where one previous desertion had occurred, we found that in two of the cases the men had vanished after having picked up their pay cheques. In the cases where there was no information as to the number of short desertions which had taken place prior to desertion, there nevertheless was indication of frequent desertions. In one case the man was living part of the time with someone else, yet when he did desert it was not to set up a common-law union.

In the five cases where there was indication that the women had previously deserted in the common-law group, in three of the cases no actual number of times could be found. It was stated, though, that they had deserted on several occasions. The other two cases stated that there had been two previous desertions for both women.

In the married group it was found that in nine cases the women had previously deserted. In three cases they had deserted once only; in one case the woman had deserted on two occasions; while in another case she had left on three occasions. In the first three cases there was indication

that the husband seemed to have made efforts to get their wives back by going after them.

In the four cases where no actual number of times that desertion took place could be found, these women had deserted the home on several occasions. One case seemed to have been a chronic week-end desertion where the woman left regularly nearly every Friday and returned to her home on the Sunday or Monday. This went on until the last desertion took place.

CHAPTER V

The data presented in the previous chapter showed certain trends in the desertions from common-law unions which seemed more accentuated than in the married group. However the sample is so small that further study of this group would be required before any conclusions could be reached.

It might be noted that generally, there seemed to be the same trends in both the common-law group and the married group, but these trends seemed more prominent in the common-law group. Both groups gave indications that men were the deserters in most cases, however the proportion was higher in the common-law group. When comparing the short desertions of both men and women, within the union the common-law group again had a higher proportion. The same trend was seen when comparing the previous marital status of both the men and women of the two groups. The common-law group also showed a higher proportion of cases where the deserted person formed another common-law union for a short time after the desertion. It was interesting to note though that the deserters of the married group more frequently formed other common-law unions after the desertion. In comparing the wage earner, the proportion of families where

neither the men nor the women were working, but receiving public assistance was higher in the common-law group. This group also gave a higher indication of both men and women working and had a lesser proportion where the husband alone was the wage earner. As for the children born out of the union, again there was a much higher proportion in the common-law group. In establishing the whereabouts of the children those in care of social agencies were higher in the common-law group, the same situation also existed for children placed with relatives; at no time were the children with the father.

It was found that the common-law group had 4.6 percent more men that deserted than the married group. The crucial time of the union in the common-law group seemed to be in the second year of cohabitation. This seemed to be when most desertions took place. The married group, on the other hand, had most of their desertions in the ninth year of marriage. Another trend in the common-law union seemed to be that the desertions took place in the early years of the union, while the married group seemed far more wide spread.

There was also general indication that the common-law group had more previous short term desertion prior to the final desertion than the married group. The short term desertions among the men seemed to be 4.1 percent higher

than the married group, while the women showed a difference of 10.1 percent. This would seem to indicate that the common-law unions were far more stormy than the married group.

More of the men and women in the common-law unions were married prior to the common-law union. This of course would account for the common-law union, as separation was predominant as to the manner in which this marriage had been discontinued. The women in this group with previous marital ties were double the men in number. However death and desertion was shown more often among the women as the cause of the marital disruption.

In the cases where the deserted person formed a short common-law union after the desertion, the common-law union group did this 14.5 percent more than the married group. In the common-law group the women tended more toward later short term common-law unions, while in the married group men were prevalent in forming these short common-law unions.

In cases where the whereabouts of the deserters were known, there was indication that 20.3 percent more deserters from the married group went on to form a common-law union than the deserters from common-law unions. It was found that about 25 percent from the married group had formed a common-law union after desertion, half of which were formed immediately after the desertion.

In looking at the bread-winner of the family, the common-law group had 8.1 percent more unemployed than the married group. They also seemed to depend to a greater extent on public assistance. The percentage where the husband was the sole bread-winner and responsible for the support of the family was 42.7 percent less frequent in the common-law group than in the married group. Women working to help husbands support the family was also higher by 1.6 percent in the common-law group. This again would indicate that the common-law husband was less willing or able to be responsible for his family. The common-law group also showed less women being the sole wage earner in the family. The trend indicated more dependency than in the married group.

In looking at the number of cases where children were born out of the union the common-law unions had 42.9 percent more cases than the married group. In most cases these children were brought from a marriage previously contracted by the women, or were born out of wedlock. The children in the married group who were not born of the union seemed to originate through the woman being an unmarried mother.

As to the whereabouts of the children, again the common-law group had 21 percent more children placed with social agencies than the married group. At no time were the children found with the father. As far as the children being with

the mother, this happened 15.7 percent less often in the common-law group than the married group. There was also an indication of 3.7 percent more children from the common-law unions placed with relatives than was found in the married group.

The study made by Miss O'Rourke seems to indicate the same trend when comparing common-law unions to the married group. Her study shows unemployment to be 10 percent higher in the common-law group than the married group. There were children born out of the union in 15 percent more cases than in the married group. There were also 15 percent more cases in the common-law group where previous desertions within the union had taken place as compared to the married group. In comparing cases where a previous marriage had taken place, there were 50 percent more cases found in the common-law group than in the married group.¹

When comparing Miss O'Rourke's study with the present one, unemployment of her common-law group was found to be 1.9 percent higher than in the present study. When comparing children born out of the union this present study shows 37.9 percent more children. It is difficult to compare the previous desertions as Miss O'Rourke has no separate breakdown for the men and women. She found 15 percent more cases

¹Ibid.

in the common-law unions while we found 4.1 percent of the men and 10.1 percent of the women had previous desertions within the union. The same dilemma exists when looking at the previous marriages. She found a difference of 50 percent, while the present study shows 28.8 percent more men and 63.3 percent more women of the common-law group to have previously deserted.¹

The general trend of both studies seem to indicate that more instability exists in both the men and women of the common-law unions than in the married group. Desertion does show a form of immaturity, but it shows trends of existing to a much greater degree in the common-law group than in the married group.

¹Ibid.

BIBLIOGRAPHY

BOOKS

- Bossard, James H. S. Parent and Child. Philadelphia: University of Pennsylvania, 1953.
- Buell, Bradley, and Others. Community Planning for Human Services. New York: Columbia University Press, 1952.
- Christensen, Harold T. Marriage Analysis. New York: The Ronald Press Co., 1950.
- Feldman, Frances Lomas. The Family in a Money World. New York: Family Service Association of America, 1957.
- Goode, William J. After Divorce. Glencoe: The Free Press, 1956.
- Groves, Ernest R., and Lee M. Brooks. Readings in the Family. Chicago and Philadelphia: J.B. Lippincott Company, 1934.
- Groves, Ernest R. Social Problems of the Family. Philadelphia, London and Chicago: J.B. Lippincott Company, 1927.
- Mariano, John H. Shall I Get a Divorce and How? New York: Council on Marriage Relations, Inc., 1946.
- Nimkoff, M.F. The Family. Cambridge: The Riverside Press, 1934.
- Ogburn, W.F. "Social Heritage and the Family," Family Life Today. Edited by Margaret E. Rich. Boston and New York: Houghton Mifflin Co., 1928.

PERIODICALS

- Bossard, James H.S., and Doll, Eleanor J. "Ritual in Family Living," American Sociological Review. XIV (April, 1949), 463-469.
- Bressler, Marvin. "Selected Family Patterns in W.I. Thomas' Unfinished Study of the Bintl Brief," American

Bibliography cont'd.

PERIODICALS cont'd.

Sociological Review. XVII (October, 1952), 563-571.

Cavan, Ruth Shonle. "The Relation of Home Background and Social Relations to Personality Adjustment," The American Journal of Sociology, XL (September, 1934) 143-148.

Fike, Norma. "Social Treatment of Long Term Dependency," Social Work, II (October, 1957), 51-56.

Lerner, Samuel H. "Effects of Desertion on Family Life," Social Case Work, XXXV (January, 1954), 3-6.

Monahan, Thomas P. "Desertion and Divorce in Philadelphia," American Sociological Review, XVII (December, 1952), 720-727.

O'Rourke, Dorothy. "Fifty Family Deserters: An Inquiry into the Reasons for Their Desertions," Smith College Studies in Social Work, I (June, 1931), 377-401.

Rasky, Frank. "Tragedy of Canadian Parents Cruel to Their Children," Liberty, XXXIV (July, 1957), 58.

Reimer, Svend. "Maladjustment to the Family Home," American Sociological Review. X (May, 1945), 642-648.

Rose, Arnold M. "Parental Models for Youth," Sociology and Social Research. XL (September-October, 1955), 3-10.

Shea, Alice Leahy. "Family Background and the Placement of Illegitimate Children," The American Journal of Sociology. XLIII (July, 1937), 103-104.

Smith, William C. "The Stepchild," American Sociological Review. X (February, 1945), 237-242.

Strauss, Anselm. "The Influence of Parent-Images Upon Marital Choice." American Sociological Review. II (October, 1946), 554.

Zukerman, Jacob T. "The Role of the Public Agency with the Deserted Family," Public Welfare. XV (July, 1957), 101-105.

Bibliography cont'd.

REPORTS

- | Dysart, Chief Justice A.L., Q.C. Western Weekly Report.
Vol. III, 1943.
- | Morris, Robina. Report of the Sub-Committee on Desertions.
A Report of the Public Welfare Division of the Canadian Welfare Council. Ottawa, June 15, 1956.
- | Welfare Supervision Boards of Manitoba. Report on the Problem of Family Desertion in Manitoba. Winnipeg: Department of Health and Public Welfare, April, 1931.

PAMPHLETS

- Thorman, George. Broken Homes. U.S. Public Affairs Pamphlet No. 135, 1947.
- Walton Eloise. Let's Work Together in Community Service. Public Affairs Pamphlet No. 194.

UNPUBLISHED MATERIAL

- Godfrey, S.R. "Why We Are Concerned About Desertions and Non-Support." Canadian Welfare Council Annual Meeting. May, 1955. (Mimeographed).

PUBLIC DOCUMENTS

- Manitoba. The Wives and Children Maintenance Act. (R.S.M. 1954).
- Manitoba. Devolution of Estates Act. (R.S.M. 1954).