

swag

status of women action group

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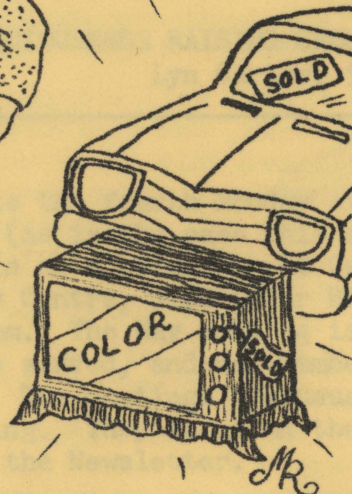
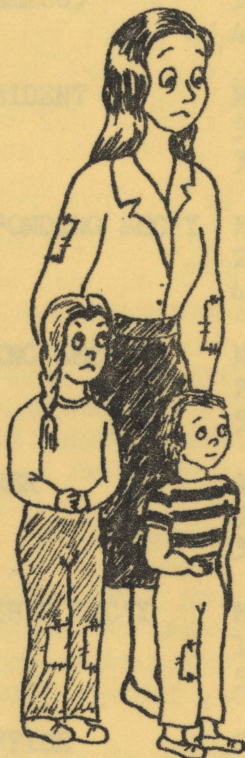
Victoria Status of Women News

May, 1976.

Volume III, number 3.

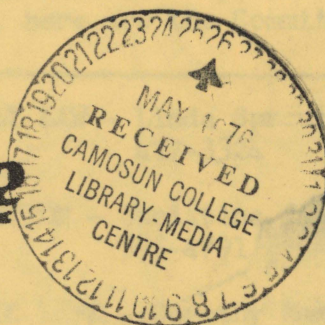
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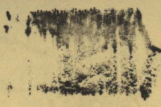
DID YOU KNOW ~ ?



Child support payments are based on what is left over after a parent has made payments on a new car etc.

Index
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WVSJ

Victims of Violence

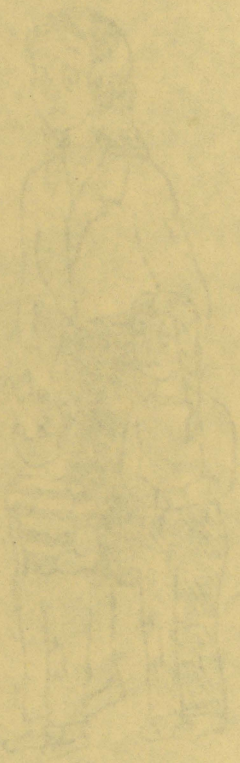
OF WOMEN IN THE SOUTH

MAY 1975

Volume 1, Number 2

Family Law

DID YOU KNOW?



Child support is a legal obligation of parents to provide for the financial needs of their children. It is a duty that cannot be avoided by simply moving out of the state or country.

SWAG NEWS

Here is number 3 of the SWAG news, and we're still learning from our mistakes. We have assumed that last month's copy didn't need saying again - forgetting that many of you are new readers. So, from now on, we'll run a brief column of basic information:

SWAG - Victoria Status of Women Action Group
Founded in 1971 to work for implementation of the Report of the Royal Commission on the Status of Women; to foster public knowledge of the rights and status of women; and to promote full participation of women in social economic and political life.

SWAG is a volunteer group, registered as a Society, with an executive elected yearly.

PRESIDENT	Mimi Robertson 1149 Wychbury, 385-8680
V. PRESIDENT (Programmes)	Lorraine Ayers, 3940 Smugglers Cove 477-6014
V. PRESIDENT	Marilyn Gore, 3 - 1150 Pandora 384-7220
CORRESPONDING SEC'Y	Marilyn Wharf 2444 Sutton Rd., 477-8453
RECORDING SEC'Y	Mary Dick, 2194 Central 598-1722
TREASURER	Ann McMurdo, 933 Walker, 388-9574
MEMBERSHIP SEC'Y	Maxine Cowley, 164 Beechwood, 598-8167
SWAG OFFICE	8 - 671 Fort St., 388-6332
OFFICE COORDINATOR	Alice Ages

MEMBERSHIP IN SWAG, AND/OR SUBSCRIPTION TO SWAG NEWS IS \$2.00 YEARLY (and that's cheap) Send money, name address and phone to SWAG's Office or to Maxine Cowley. We'll send you a receipt and membership card. DO IT NOW.

DID LAST MONTH'S COVER FRUSTRATE YOU ?

The Dennis the Menace Cartoon on the cover of April's SWAG News was unreadable. To satisfy your curiosity, the caption was: "Okay, so you know a lot more than me. Tell ya what I'm gonna do...when I get older, I'll hire you as my SEKATARY?"

SWAG COMMITTEES

Members are encouraged to focus their energies on one or several Swag committees. There are many areas not being covered by presently active committees though. We hope some of you will come forward to begin new groups working in these areas. If you have an interest - phone the office. Meanwhile, here are the Committees now active:

FAMILY LAW - Linda Sproule-Jones, 477-3324
EDUCATION - Christina Johnson, 595-4791
PUBLIC LIFE - Dorothy Maxwell, 384-0083
HISTORY - Linda Gilligan, 384-6629
NEWSLETTER - Marilyn Gore, 384-7220
CONSCIOUSNESS RAISING GROUPS - Lyn Carter, 595-6378

MEETINGS:

SWAG meets the fourth Monday of the Month - except (as is the case this month) when that falls on a holiday - at Cedar Hill Community Centre, 3220 Cedar Hill Rd., at 8:00 pm. The May meeting is May 31st. Coffee is served, and non-members are welcome. The meetings are usually fun and interesting. They focus on the Month's theme in the Newsletter.

This month the program will be Family Law - a panel discussion on Family Law, the Berger Commission proposals, and two cases presented in the supplement.

WE NEED DONATIONS. Some readers can't pay but want the NEWS. - We want them to get it.

A WORD FROM SWAG'S PRESIDENT - Mimi Robertson:

My congratulations and thanks to the Family Law Committee for the supplement to this month's Newsletter.

Spending hundreds of hours slogging through dull legalese is not my idea of "fun" - but change will come about only with this kind of work.

Take time to read it, and discover, as we did, that we must take certain steps as individuals to assure protection for ourselves and our children under existing laws. Make notes and pass it on to a friend.



Self - portrait

If I look like the above figure these days, it's because SWAG has found some good friends who arrived on the scene when we most needed a lift. (After Grace McCarthy's letter stating that no funds would be available for SWAG.)

Kay Lines, well - known Victoria Business Woman, has delivered a Gestetner to our office. Only those who have trundled boxes of paper across town to Cool - Aid to get out the Newsletter can fully appreciate the boon this is to us, but it also opens up hundreds of possibilities for running off information sheets as the need arises. Thank you, Kay.

"Strings" is an organization of Colwood women who worked last year on an IWY grant to reach women in the unorganized areas. Last month we received a cheque from them for \$300.00. Judy Clark and Karen Lehmann of that group are part of the Esquimalt lobby team which meets monthly with an MLA to keep him informed of the needs of women in the constituency. Thanks, "Strings" - we'll let you know

how we intend to spend it!

With friends like this, we can't help but have a successful year!

And that's not all! The Secretary of State Dep't. sent us \$5,938.00 for a summer project. This includes salaries for 3 students and office rental until September. The project, dreamed up by Alice Ages, Ann McMurdo, and Lynn Greenough is intended to reach women of various ethnic groups, many new to the community.

We recognize that although new Canadian men and children have little trouble moving out into the community, through school and work, women are isolated in the home, venturing out only to do the necessary shopping. The objective of the project are to build small neighborhood support groups for these women; to inform them of agencies which can be helpful to them, such as Legal Aid, the Human Rights Branch, English for New Canadians programmes, etc. Our students will also work with the Education Committee to prepare a kit for teachers - and - will make a start on the preliminary organization of our Fall Conference.

Three of us interviewed 13 people on Saturday from 9:00 until 2:00. We eventually chose:

Lorraine Toleikis -

a warm, involved, and energetic woman active in 2 women's groups, who is working toward her Bachelor of Social Work degree at U - Vic.

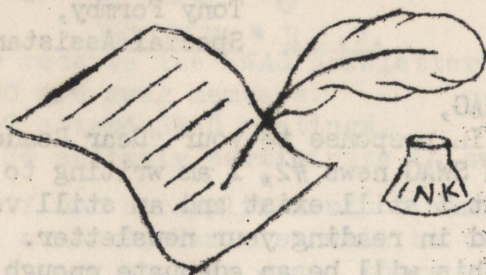
Louise Robbins -

a sparkling personality, totally committed and active in the Women's Movement in High School and University. Louise is going into medicine at UBC.

Because many of the applicants could not meet the Federal guidelines - i.e. registered at University before March 31, 1976, we decided to hold further interviews this week for the third student.

DON'T FORGET THE MEETING MAY 31st!

LETTERS



Dear Sisters:

Prison

The Rights of Women in Provisional Subcommittee of the B. C. Federation of Women is alive and well and trying to accomplish something -- that's what this mailing is all about.

To bring you all up-to-date: at the recent B.C.F.W. meeting held in Roberts Creek, Claire Culhane, Chairperson of the subcommittee, was given approval to represent the B.C.F.W. on a Citizens Advisory Committee for the B. C. Penitentiary which will investigate conditions there. Hopefully this will be the first of many for all of the prisons, remand centres, detention homes etc. in B. C.

Claire also made contact with the director of the Women's unit at Oakalla with regards to setting up some sort of programme. I also was authorized by the B.C.F.W. to write a letter asking the Attorney-General, Garde Gardom, why no inquest has been held into the death of Mary Steinhauser, killed when guards rushed the classification vault of the B.C. Pen following a 41-hour hostage-taking there.

In the meantime, please try to investigate and document any information about detention centres in your area, and set up visiting committees, if at all possible. Claire will be collating all the information, so send it on to her at 3965 Pandora, North Burnaby, 299-7178. A meeting will be held in Vancouver soon to discuss future action.

Sincerely,
Kathryn Hazel, for the
Rights of Women in Prison
Provisional Subcommittee.

Dear SWAG Executive,

This letter is in reference to programming for the SWAG monthly meetings.

Perhaps it would be of benefit here to restate the original reasons for the existence of Victoria SWAG. The main focus was to find ways to petition governments to implement the recommendations of the Royal Commission. The programming became a vital tool for this as did the various committees. Another main focus was to have programmes of information that could lead to action or programmes that reported action.

Having said this, I feel that the last two programmes, one on assertiveness training and one on political action strayed from the original purposes of SWAG, although the way in which the topics were presented could certainly be considered to fit into the wider parameters of the feminist movement.

I have no quarrel with the Human Potential Movement, its advocates or the methodology of CR Groups, encounter

groups etc., but I am proposing that since we would probably all agree member participation is necessary and valuable, perhaps this expectation could be accomplished several different ways, and we could continue to reinforce the original aims of SWAG.

Speakers, panels, debates, interviews etc., could serve this purpose while at the same time giving the members needed information on which to base their opinions and ultimately lead to action.

Thanks for listening to my beef.

Love,
Vaughn

(Executive's Response)

We hasten to assure you we do not intend to lose sight of the original goals of SWAG. Surely though, in fulfilling the aim to "promote full participation of women in social, economic and political life", it is important that we introduce our members to growth workshops and CR. Many of us have a great deal of conditioning to overcome before we feel sufficiently confident to take on the Almighty Decision-Makers!

SWAG WELCOMES YOUR COMMENTS. A PAT ON THE BACK IS ALWAYS NICE, BUT IF WE DO SOMETHING WRONG * TELL US ABOUT IT. SEND LETTERS TO THE OFFICE.

and...MORE LETTERS

Dear Mom,

Steve phoned tonight to tell me he applied for a job in a small downtown shop. The man who owns it said he was really looking for girls but had to advertise for both sexes because of the Human Rights Act. But he liked Steve, he said, and if he decided to give him the job, he would pay him more because he's a guy. Steve was surprised that this is still happening and thought you might be interested.

Luv,

Lynn

(a late-night note left for Mimi R.)

Earlier in March 1976 a proposal for funding was submitted to my Deputy's office and I have since had an opportunity to study your brief and also to note your request for a grant of \$24,302.82 towards operation of the Resource Office of the Victoria Status of Women Action Group.

I am sorry to advise that a decision cannot be made on your application until later in the year when a policy statement by government on the matter of grant funding to various programmes will be forthcoming.

It is regrettable that budget estimates are already established for the 1976/77 fiscal year and interim support cannot be provided at this time.

Sincerely,

Grace M. McCarthy, Min.

On behalf of the Honourable Ron Basford I would like to acknowledge with thanks your letter of April 5, 1976 in which the SWAG expressed its concern over proposed cuts in legal aid services in the area of family law. I regret that this acknowledgement has been delayed over Easter.

With respect to the concern you raise, I can assure you that the area of Family Law is one of Mr. Basford's keen personal interests. The responsibility for the administration of legal aid services rests squarely with the provinces. I have, nonetheless, brought your correspondence to the attention of Department of Justice officials for their consideration. You may expect to hear directly from Mr. Basford in the near

future. Once again, thank you for bringing your interest in this matter to Mr. Basford's attention.

Yours sincerely,
Tony Formby,
Special Assistant

Dear SWAG,

In response to your "Dear Reader" appeal in SWAG news #2, I am writing to assure you that I still exist and am still very interested in reading your newsletter. Hopefully this will be an adequate enough 'sign of life' to guarantee continuing to receive SWAG News.

In addition I include my cheque for \$2 which hopefully may someday be more than the minimum amount required. I hope in addition to someday be more involved in your group but find at present that your meetings conflict with previously made commitments.

Sincerely,

Linda Penney

Dear People,

Enclosed is a money order to pay for my copy of SWAG News. Although I don't have the time or energy right now to get involved in the Women's Movement, I like to read the News to see what other women are up to. Thanks!

Ada Ulmi

Thank you for all the good materials.

Enclosed is a donation. It's good to be a "card-carrying" feminist once more!

To be frank, I don't have a lot to report on the Women's Movement as a group active in Ft. St. John, although one does meet interested and aware individuals here. I do feel there are opportunities for women in the North, in spite of a somewhat macho or cowboy atmosphere at times.

As for the rest of 'the north', I can really tell you what's happening. Mere distances between towns is incredible to me anyway. (Hundreds of miles to the next town north of Ft. St. John). I know there is some action in Dawson Creek via women in the Farm Union, & I know of the Northern Women's Conference in Terrace May 29, but don't know any details I'm afraid. I have about as much contact with women in Prince George as you do with women 300 miles south of you!

All the best,
Carolyn Folse

THERE WERE MORE LETTERS - but not enough space.

NOTES & NEWS

FEMINISM * R.I.P.

750 receive the SWAG Newsletter.

150 are swag members.

50 attend SWAG meetings.

20 actively participate in swag.

If our accomplishments diminish like those numbers, Feminism will be dead and buried very quickly - and there are countless ignorant and hostile people more than willing to help our apathy heap dirt on the coffin.

Feminism was alive and well at the Rally, but it takes each of us believing and working and contributing to keep Feminism's life energy flowing. It takes new active sisters to recharge the energy when older, longer working sisters falter.

Reflect: What more can you do -

What more can SWAG do -

What more can we all do -
to increase....

Our numbers -

Work accomplished -

Changes effected ?

The B.C. Government is planning to build a Children's Hospital at Shaughnessy in Vancouver, after a task force examined the pediatrics units in Vancouver. "No similar examination has been made by the Government of Maternity hospitals in Vancouver, nor has there been an evaluation of the needs." (Maternal Health Committee, affiliated with the Social Planning and Review Council of B.C.)

"A Maternal Health Centre is needed:

- 1) So that parents can have the delivery style they wish in a facility that is fully equipped to help a sick newborn, and where the parents can be involved in the care of their newborn 24 hours a day,
- 2) So that health professionals can be trained (in a humane facility that has 80% normal deliveries to 20% highrisk deliveries taking place in a model for the rest of the province that is an ideal for family centred maternity care.
- 3) So that there is a "community" focus on a maternal centre providing space for the total "team" (non-professional, social services, medical) to meet the needs of the family in this period of stress. " MHC

Those who attended the Maternal Health Committee workshop thought the first plan of action should be to send letters to MLA's and Premier Bennett.

Mary McFadden of Parentcraft suggests that women send their own version of the following letter to their MLA's:

" I support the establishment of the Child Maternal Health Unit on the Shaughnessy Hospital site in Vancouver.

It seems ludicrous that a government would even consider a paediatric facility as a separate entity from the maternal unit.

No amount of patch-work can bring an antiquated facility up to the standard of health care the B.C. family is entitled to. "

NDP COUNTRY FAIR

A Country Fair will be held on Sun. May 30 from 2 p.m. to 5 p.m. In addition to a white elephant sale, there will be sales of plants, produce, home baking, books and records. Refreshments include hot dogs, chili, sandwiches, hot & cold drinks, etc. A feature of the afternoon will be a volleyball challenge match with the unbeatable Saanich and the Islands NDP endeavouring to humble the Victoria "Good Times". There will also be other games for adults and children.

The fair will be held in Morrison's grounds at 6922 Central Saanich Rd. or, if the weather is bad, in Keating Elementary School at 6843 Central Saanich Rd.

Information:

Dorothy Maxwell - 384-0083

Jennie Chaster - 479-3923

Women's Centre News

The Women's Centre is currently operating with two co-ordinators who, for the next couple of weeks will be reviewing Women's Centre policies and services in regard to what is offered by other women's organizations in Victoria. We hope to halt any duplication that has been happening in the services we have been offering, and to do further research into what the women of Victoria need and want that we aren't, as yet, supplying.

NOTES & NEWS

(continued)

ANY INPUT WILL BE WARMLY RECEIVED.

We are operating Tuesday to Friday, 10 a.m. to 4 p.m. We will have a more comprehensive picture of our plans for you in the next newsletter, and at that time send more detail as to what energy is needed. However, here is a brief outline of our priorities.

1. Women's Legal Rights.
2. Health
3. Education
4. Political Action and Support of Law Reform.
5. Emotional support for Women

We are still looking for members. The fee is \$2.00. Our next general meeting is Tues. July 6th. at 7:30 p.m. at the Women's Centre.

The "Up Front" women's craft store in front of the Women's Centre is coming along well. Any interested crafts women who would like to put their material in the store should call 385-1644 or drop by. The Collective is there on Tuesday, Wednesday and Thursday, and are anxiously seeking crafts of all sorts.

NO COMMENT

LONDON (UPI) - Charges of indecent assault on an 11-year-old girl were dismissed today because the girl told the Judge she had never heard of God or the Bible, did not go to church and did not receive religious instruction.

The judge, in Chelmsford Crown Court, said the girl was unfit to give sworn testimony and her unsworn word was useless as there was no corroboration available.

The accused attacker, William Scott, 57, had pleaded innocent. (Times, p.8 April 29, 1976)

YOU ARE WELCOME TO ANNOUNCE A MEETING OR EVENT OF INTEREST TO OUR READERS, TO MAKE A STATEMENT, OR SUBMIT AN ARTICLE...

Just get copy in to SWAG's Office by the 12th. of the month.

HELP!!!

In spite of the 'obituary' at the beginning, SWAG's committees ARE growing in numbers, enthusiasm and innovative plans of action. However, we have become aware of a need to re-activate the Human Rights Committee, which was abandoned when the B.C. Human Rights Commission overhauled the Human Rights Act. Kathleen Ruff's Branch is still understaffed and overworked and women are coming to SWAG for help. Some businesses are flagrantly violating the Human Rights Code - and women, as usual, are the losers.

SWAG committees take one or two evenings a month of your time. You do not have to be an expert; interest and enthusiasm being the important ingredients for any group's success. Three cases have come to our attention this month. All require action.

Will you help us to form such a committee? If we start now, we can be in full operation by fall.

Phone Mimi --- 385-8680

EVERYWOMANS BOOKS - 2033 Oak Bay Ave.,
592-7311. 11 - 6 Tuesday to Saturday

Stock up on summer reading at Everywomans books. Lots of new titles... like Women Look at Psychiatry, edited by Dorothy Smith and Sara David, both of Vancouver, and published by Press Gang.

In bringing together the experiences of nine women - victims, patients, therapists, theoreticians - Women Look at Psychiatry poses a challenge to psychiatry's basic assumptions about women. It critically examines the role psychiatry has played in the oppression of women, demands that we re-assess our concepts of mental health and mental illness, of madness and anger, and presents the reader with alternatives - both political and personal.

THEY DID IT AGAIN!! on the Census forms.

Are you game to strike a blow for equality? Olivia suggests we write "there is no 'head' in this household. We are equal partners", then list family members alphabetically. Ignore column 2. (Relationship to head of household) entirely.

It will bung up the computers, but that's their problem. Asking hasn't worked, but this might give them the message.

SWAG

Family Law Supplement

TABLE OF CONTENTS:

Introduction	1
Case I	1
Matrimonial Property	2
Bill 39 - Community of Property Act (MLA Rosemary Brown)	3
Wives Protection Act	3
Family Relations Act	3
An Ounce of Prevention - Marriage Contracts	4
Case II	4
Maintenance and Divorce - Law Reform Commission	5
Family Maintenance - Berger Commission Report	6
SWAG Comments on Maintenance	8
Reciprocal Agreements for Maintenance	8
Unified Family Court Act Provisions	9
Unified Family Court	10
Interview with Dean of UVic's Law School	11
Change of name laws	12
Housespouse and Credit	13
A Case for Equality	15

NOTES & NEWS

SWAG



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INTRODUCTION

FAMILY LAW constitutes the body of legislation affecting the family unit - marriage, divorce, separation, children, maintenance, matrimonial property. Although the causes and results of these situations are inter-related - i.e. unhappiness in the marriage leading to separation and divorce also contributes to the juvenile delinquency of a child - the laws governing the disposition of such cases are fragmented and the separate cases may be heard in either Provincial or Federally appointed courts.

IT has only been recently that large-scale, concerted efforts have been made to systematically examine Family Law as a complete entity and to propose reform.

THE FAMILY LAW Committee of SWAG was set up in 1973 as an outgrowth of work originally done on a Human Rights Brief. The first task of the Committee was to gather research to submit a brief to the newly established Royal Commission on Family and Children's law headed by Justice Thomas Berger.

THE COMMITTEE has continued it's work in three areas: 1. lobbying government for changes in inadequate legislation; 2. bringing to the attention of the public the subject of Family Law; 3. trying to help individuals, where possible, who have faced the difficulties of the current law.

IF ANYONE IS INTERESTED AND WOULD LIKE TO PURSUE THE TOPIC OF FAMILY LAW, WE INVITE YOU TO ATTEND THE FAMILY LAW COMMITTEE MEETINGS. PLEASE CONTACT LINDA SPROULE-JONES - 477-3324

CASE I

Because so many people, particularly women, have suffered under the inequities of the law, need for reform is paramount. This case and one other are but two examples

MR. & MRS. M., married for 21 years, separated in January 1974. They'd worked together in the family business, Mrs.M. working full time at purchasing, bookkeeping and correspondence. She took no salary, nor was anything paid into Canada Pension or Unemployment Insurance for her. Mr.M. put 20% of the company shares in her name for his income tax purposes, but Mrs.M. had never seen these. Everything but basic living expenses and mortgage was turned back into the business. Consequently the family home was never completed and will require \$8,000 to repair and finish.

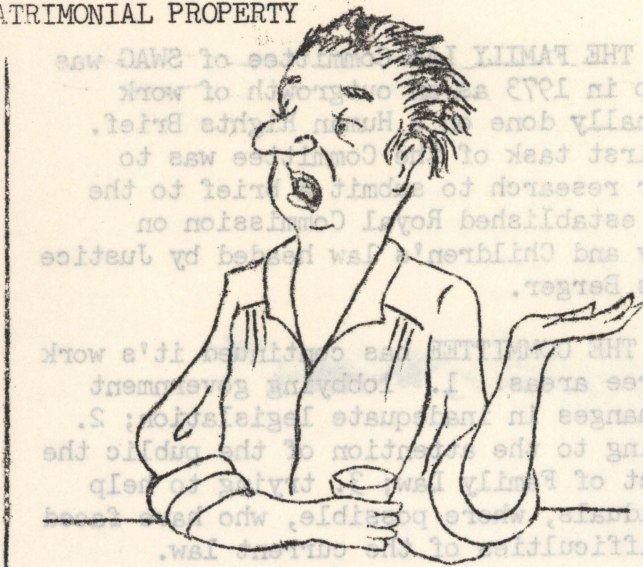
AT the divorce hearing, March 1975, the Judge referred the case to the Registrar for recommendations on a maintenance order for Mrs.M and two children. The Registrar's hearing was in May, but he failed to file a report for 8 months. Since July 1975 Mr.M. has paid nothing towards his family's maintenance. Mrs.M. appealed to the Attorney

General's office to get the Registrar to file his report, but was told to go on welfare. Her own lawyer accomplished nothing during this time.

In October the Judge made an interim maintenance order of \$200 pending the Registrar's report. Mr.M. did not pay it. Finally her MLA got some action and the report was filed in January 1976. It recommended \$450 per month maintenance plus a \$1,550 cash settlement for maintenance owed. So far, Mrs.M. has received nothing.

She and her child (the eldest having left home) have been on welfare pretty steadily since June 1975 as she has no separate assets of her own. The house is in joint tenancy. She wishes to sell as it is too expensive to heat, due to needed repairs. Mr.M. refuses to consent.

Mrs.M. felt her lawyer was not acting in her best interest. She resents that she and her child must exist on welfare when Mr.M. is well able to support them. She has been made to feel greedy, when she believes she worked long and hard and earned her way.



"SURE I put the house in both names!
But now we're divorced - the deal's OFF!"

STUDIES have shown that most married couples view property and possessions acquired during marriage as "ours". The Law does not share that view. The wife's only financial right regarding her husband is the right of support.

- Property in only the husband's name belongs to him.

- A wife can claim part of it if she can PROVE (i.e. receipts) that (a) she helped pay for it directly (not by saving out of housekeeping) or (b) that he intended to give her part of it as a gift.... Thus, if you buy the furniture and he buys the house, GET IT IN WRITING that you share the assets.

IF the home is in both names it is held in Joint Tenancy. If the husband bought the house, the Court assumes he gave half to his wife. If the wife bought the house, the Court assumes that the husband merely holds his half interest in trust for her.

If the husband deposits all money in a Joint Bank Account, Courts assume he intended to give the wife half unless he can show that was not his intention - i.e. the account was only in her name also because she paid the bills. If both spouses work and contribute to a joint account, each is entitled to the proportion they contributed, although Courts tend to divide funds equally. However, since withdrawals are made on a first come first serve basis, the Vancouver People's Law School recommends that couples have separate accounts for all except joint household expenses. One snag: if money you put in your account is saved from housekeeping, it belongs to him.

THUS, matrimonial property laws do not view property as belonging to the marriage; it belongs to individuals. The wife can only claim property on the breakup of a marriage if she bought it or can prove she paid for part of it.

The message of the current law is GET IT IN WRITING! We assume marriages are based on trust and cooperation. Unfortunately the shock usually comes too late - when a marriage is breaking up. If it's not in writing, 'Trust and Cooperation' are as much a fairy tale as 'they lived happily ever after.. The End'.

The Berger Commission began it's recommendations on Matrimonial Property with four basic assumptions:

1. All persons should be equal under the law.
2. Marriage is a partnership of shared responsibilities.
3. The roles of economic provider and homemaker are of equal value to the relationship.
4. Married women are economically competent.

The Berger Commission recommends the adoption of full and immediate Community of Property as the system of matrimonial property which best acknowledges the equality of men and women within the institution of marriage. It allows:

1. Equality of responsibility and independence during marriage.
2. It reflects the way most of us

now order our married lives and provides a legal framework to support the commonly held intention that property common to the marriage is "ours".

THE Community Property system views all property and assets acquired during marriage (excluding gifts and inheritance) as belonging to the marriage.

Community Property is subject to the joint management of both spouses during the marriage. Acquiring or disposing of property requires consent of both spouses. Special provisions are made for management of a family business.

Community property is terminated and distributed in one of three ways...

1. Joint agreement 2. death 3. court proceedings, i.e. separation or divorce; joint application, or application by one party if the other is financially irresponsible. Then the Community Property will be distributed equally.

Maintenance claims are considered separately. Community property is a fixed property right.

Couples will be allowed to contract out of the system and enter into any property arrangement they choose.

- Information for this article was obtained by the Vancouver People's Law School Booklet: Matrimony and Divorce and the Berger Commission's Sixth Report: Matrimonial Property.

Like most Private Member Bills, Bill 39 has little chance of success. If the concept of Community Property reflects your views on Matrimonial Property, write Premier Bennett, Attorney-General Gardom, and your M.L.A.

3 BILL 39 - COMMUNITY OF PROPERTY ACT

MLA Rosemary Brown has submitted to the Legislature Bill 39 - Community of Property Act. It states:

1. All persons shall have equal protection under the law.

2. The Community property within the marriage and any and all property acquired while in the partnership of marriage shall be equally shared.

3. Notwithstanding section 2, property that at the time of acquisition is agreed by both partners in the marriage to be the property of one party shall remain so.

4. In the event of the partnership of marriage being dissolved both individuals will have equal claim to community property and the division of said property shall be decided between partners to the marriage or in the case of disagreement to be decided by a court of law.

5. In the division of property there shall not be discrimination against either of the parties involved because of the role assumed in the partnership.

THE WIVES PROTECTION ACT applies when a house is in the husband's name only and allows a wife to file an application at the Land Registry Office to be allowed to live in the house. Then the husband cannot sell the house without her consent. If the husband dies, she can live in it for the rest of her life even if he willed it to someone else. This Act applies only during marriage and ends on divorce.

SECTION 8 - FAMILY RELATIONS ACT

This section is very important in the settlement of property at the dissolution of marriage. It states that if a spouse is entitled to any property he or she may make application to the court NOT MORE THAN TWO YEARS after the divorce or judicial separation. The court may then "make any order... to provide for the application of all or part of the property, including settled property, for the benefit of either or both spouses or a child of a spouse of the marriage". Often lawyers are not aware that they can use this clause for women clients who may be able to justify entitlement to some family property.

...ably enters marriage with
... or intentions towards each other,
... if the marriage breaks down, the courts
... reflect these intentions. For lack
... a written guide, the Judge has to make as
... a judgment as he can, often in an atmo-
... of discord and bitterness. How much
... pler separation and divorce would have
... en had there been a written agreement. In
... t, the marriage itself might have had a
... ater chance of success had the couple,
... le writing out an agreement, discussed
... oughly their expectations of each other.

IT IS this latter point that prompted
Michael and Becky Harcourt of Vancouver to
draw up a marriage contract, which they think
not as a legal document but as an under-
standing between two people. It is a way of
pointing out potential problem areas for ra-
tional discussion, thus avoiding resentments
that might grow into real problems. Married
for five years, the Harcourts both work out-
side the home, Becky as a schoolteacher, and
Michael as a lawyer and alderman. Their con-
tract is a natural outgrowth of the problem
living that takes place in the early years
of marriage. It defines financial respon-
sibilities and goals and the sharing of work
within the marriage. It deals with the divi-
sion of property and with future plans such
as buying a home and whether or not there
will be children.

DEALING in family law through his work
Legal Aid, Michael perhaps has an edge on
average husband in seeing the advantages
of such an agreement. But he stresses that
legal counsel is not necessary in drawing it
up. There is no need for it to be a legal
document even though it can potentially be
used in divorce action to show intent.

OLD-BLOODED, you say, lacking in rom-
ance. Not so, say the Harcourts. Getting
business arrangements out of the way en-
ables them 'to get on with the relationship'.
As to their plan has been mixed. Those
young people tend to be puzzled, whereas young
couples show interest, no doubt be-
cause of the changing outlook on marriage.
Generally, it seems, couples with stars in
their eyes for each other view marriage with
suspicion. A healthy sign. Perhaps
there is hope for the institution of mar-



CASE II

MR. & MRS. A. divorced in 1964 in
the Yukon after 7 years of marriage, at
her request. Although Mrs. A. was awarded
custody of the children, no maintenance
order was given. Mrs. A. returned to her
parent's home in Victoria and supported
her children (aged 5 and 6) by clerking
in a department store. Fourteen months
later, in debt, she appealed to the Padre
and the Commanding Officer of the Armed
Services Base where Mr. A. was posted and
was told, "There is no provision in the
Armed Services Act for the children of
divorced personnel."

IN 1965 Mrs. A. applied to Family
Court and was awarded \$20 per child. The
Judge noted that Mr. A. had to make large
payments on his new car and boat with
trailer - therefore, a larger maintenance
payment for his children was impossible.

IN 1966 Mrs. A. applied to have the
order varied. It was upped to \$32.50 per
child because the Judge said both parents
should be responsible for the children.
He split the welfare rate per child be-
tween the parents, neglecting to consider
that under welfare, they would also re-
ceive free medical and dental care.

SIX years later in 1971, a new order
for \$75 per child was sent to Germany
where Mr. A. was stationed. Mr. A's Com-
manding Officer told him to pay only \$50
- which he did, also ignoring letters
from Family Court telling him he was in
arrears for three years.

IN 1974 Mr. A. was posted to Winni-
peg. Family Court started proceedings

5
against him for \$1800 arrears. The Winnipeg Court threw it out. A new order was sent from Victoria. The Winnipeg Court ignored it for a year. In 1975 Family Court again sent a duplicate of the 1974 order to Winnipeg. Nine months later the Court responded that one child would be cut off because he was now 18 (though still dependent on Mrs. A) and \$100 a month would be sent for the other son until he reaches 18 in 6 months.



The judge believes we are equally responsible for the children - so he awarded 66% of my salary and 9% of his salary to their maintenance!
EQUALITY ??

MRS. A. resents having to be forever poor when the maintenance of her children - which takes over 66% of her salary - would only take 9% of Mr. A's salary. She also resents having to pay taxes to support a court system which did nothing for her or her children. She believes it would have been cheaper to pay the maintenance than to pay for her numerous appearances in Family Court over the years.

REVIEW OF THE LAW REFORM COMMISSION OF CANADA'S WORKING PAPER ON MAINTENANCE ON DIVORCE.....

by Faye Sturrock

This is a paper dealing with the alteration of rules of maintenance between spouses both in form and concept.

PRESENT law is based on the historical concept of men being the providers and women the dependent domestics. In feudal

SUMMARY OF THE REPORT OF THE BERGER
society the husband and wife were viewed in law as one person. The husband gained ownership or control over all his wife's property on marriage, including the right to her income. Having no legal capacity to hold property or to keep her earnings a married woman could not maintain herself. She had a right to the necessities of life providing she did not commit adultery or desert him. Hence the law required the husband to be under a legal obligation to maintain his wife.

ALTHOUGH the rules governing a wife's property and income rights have been significantly altered and substantial numbers of married women are gainfully employed outside the home, the maintenance rule has remained constant. The situation is complicated by the fact that the Provincial law defines the nature of obligation from marriage to divorce, and Federal Law governs maintenance following divorce. The present Divorce Act (Federal 1968) does not define precise criteria for maintenance awards.

THE COMMISSION concludes, "neither history nor tradition nor appeals to nature furnish any valid reason for retaining in our law any traces of the view that one sex, as a class, should be generally exempt from financial responsibilities flowing from marriage that are equivalent in some meaningful way to those borne by the other."

THE Commission proposes 7 principles, summarized as follows, for financial provision based on the philosophy of treating both spouses as legal equals regardless of sex. THE divorced person is responsible for his or her maintenance but a right to maintenance may be created by reasonable needs following from such things as custodial arrangements for children of the marriage, the inability of a spouse to obtain gainful employment, etc. Maintenance on divorce is primarily rehabilitative in nature, and shall continue only as long as reasonable needs exist. Thus it may be temporary or permanent. The right to maintenance is based on need rather than being punitive or fault-oriented. The amount of maintenance should take into consideration the needs of both spouses, the property, the ability of each spouse to pay maintenance or to contribute to his or her own, and obligation of each spouse to the children. THE COMMISSION INVITES YOUR COMMENTS.

SUMMARY OF 7TH. REPORT OF THE BERGER
COMMISSION REPORT ON FAMILY MAINTENANCE.

by Norrie Preston

THE Current law is contained in federal statutes (Divorce Act) and provincial statutes (Family Relations Act).

THE outstanding characteristic of the existing laws on maintenance is their vagueness. This has allowed judicial decisions to reflect contemporary social attitudes. However, despite this flexibility in the law there are two fundamental assumptions that underlie most decisions on maintenance.

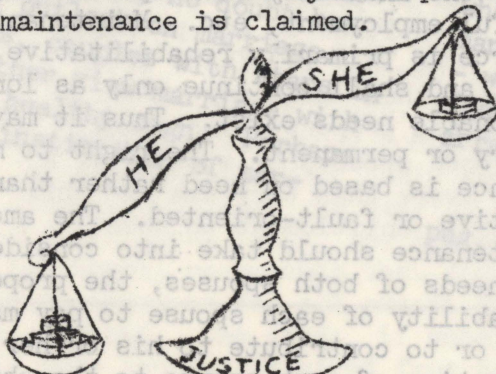
1. the traditional view of marriage -

Most decisions proceed on the assumption that upon marriage the husband becomes economically responsible for the wife and the wife financially dependent. A few judges have questioned the traditional view of marriage and have observed that "The marriage certificate is not a guarantee of maintenance".

In the U.S. the National Organization of Women has emphasized that the new UNIFORM MARRIAGE AND DIVORCE ACT (which contemplates that most divorced women will return to work) will work equitably only if job discrimination against women is significantly curtailed.

2. the relevance of fault -

Under the existing law of maintenance, fault is highly relevant. No spouse has a claim to maintenance simply because he or she is a spouse. Moreover, the conduct of the spouse claiming maintenance (usually the wife) is highly relevant to the amount awarded. Particularly when there is no evidence of fault or misconduct by the spouse from whom maintenance is claimed.



(6)



"The law in this case is vague. Therefore, I, with my antiquated, stereotyped attitudes, shall endeavor to interpret it!"

CRITICISMS OF THE PRESENT LAW

1. Application to low income families

In many cases the financial resources of the family prior to the breakdown of the marriage were barely adequate to support one household - let alone two. Husbands may argue that legislation which limits their ability to contract a second marriage is discriminating and punitive. Therefore social assistance is provided for deserted and destitute wives.

The current law reflects the values of nineteenth century England, not twentieth century B.C. It was designed for persons of moderate or great wealth.

2. Administration of the law.

Because the development of Family law has been hampered by a mid Victorian attitude, our legal system has not made an adequate response to disputes involving family maintenance. The proper preparation of a maintenance case must involve a thorough examination of the party's resources and liabilities.

The most common cases today are those in which neither spouse has committed any serious misconduct and both parties are responsible for the failure of the marriage. In these cases judges usually seek an uneasy compromise between the needs of the wife and the husband's ability to pay. The wife often receives less than she is entitled to from social assistance.

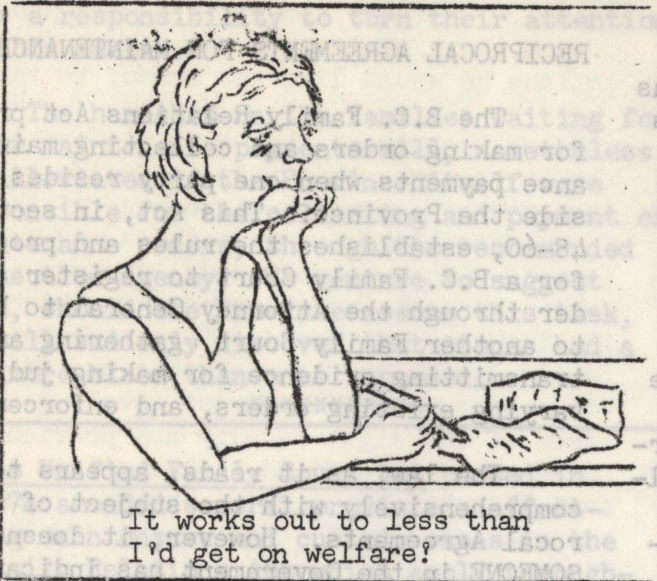
Many maintenance awards are based on erroneous or inadequate information. At present, the onus of placing financial information before the court is on the par-

ties themselves. Often the husband will not declare his resources; the wife does not know his resources and has difficulty discovering them. To add to the distress of the people involved, cases are often poorly prepared by lawyers for a variety of reasons. Legal Aid is inadequate and when the issue comes before the court, it is handled badly because of poor facilities and inadequate staff. Moreover, the parties may have to deal with a three level system of family law.

The Alberta and B.C. experience is that specialized Government Enforcement Agencies are economically viable in the sense that amounts recovered far exceed the cost of recovery.

The courts and law enforcement agencies are apathetic or opposed to taking legal action. Evidence is cited in different studies that show there are a large number of unserved child support warrants. In California, where vigorous enforcement procedures were adopted - using specially assigned investigating officers - there was a significant improvement in the amounts recovered. In Canada, the general estimate by one writer is that there are 160 thousand families without support from responsible spouse or parent. Adding to the difficulties is the fact that the law gives priority to ordinary civil debts over a parent's obligation to his family.

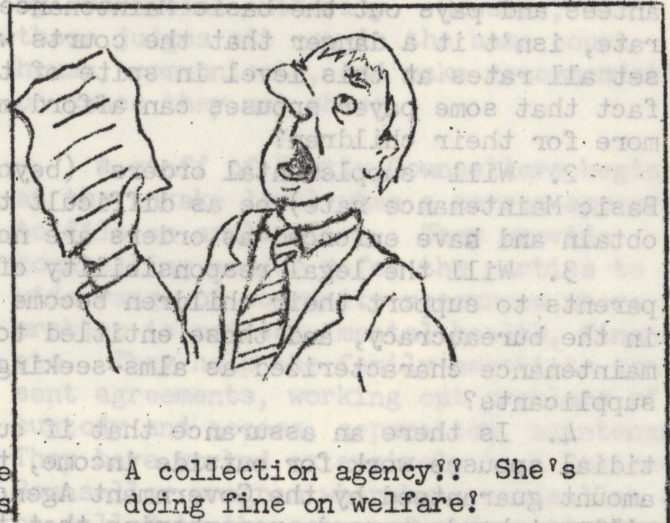
The aim of any new legislation on maintenance should be to achieve maximum fairness with minimum bitterness, distress and humiliation.



The present system is very expensive, not only for the parties, but also for the community which must bear the cost of maintaining the courts and other governmental agencies involved in the attempts to resolve maintenance disputes and claims.

3. Judicial Discretion. Critics of the present situation suggest that there is too little guidance given to judges. Although they will always have to interpret the law in the light of the circumstances before them, they ought not to have to create the basic rules. Creation of the basic rules of law is the responsibility of the legislature.

4. Enforcement Procedures. The economically dependent spouse doesn't have the financial resources necessary to successfully pursue her legal rights. The claimant spouse has to locate the responsible spouse and obtain legal assistance in initiating legal proceedings against him.



THE BERGER COMMISSION recommends:

1. That every economically dependent spouse will be entitled to the payments equivalent to the rate set by the Social Assistance Act.
2. That this money should be available to the claimant by administrative act from an appropriate government agency without the necessity of any court proceeding; and
3. That the government agency should have a claim to recover the payment from the other spouse.

By these proposals the Commission hopes to reduce the number of cases which go to court. The Commission also feels that the proposals would rationalize the procedures for ensuring the adequate maintenance of economically dependent spouses and their children.

A spouse entitled to basic maintenance would also be free to seek a "supplementary award" if he or she considers the circumstances warrant such an award.

SWAG'S COMMENTS ON MAINTENANCE

IF the Berger Commission recommendations are enacted, the conditions of many families will be vastly improved:

1. Payments to families will be guaranteed by the Collection Agency.
2. The payments set at the Social Assistance rate will in many cases, be far higher than rates now set by Family Court.

However, we are uncomfortable with some of the administrative procedures suggested in the Berger Commission and in Human Resources Minister VanderZalm's proposal for a Collection Agency. For example:

1. If the Government Agency only guarantees and pays out the basic Maintenance rate, isn't it a danger that the courts will set all rates at this level in spite of the fact that some payer spouses can afford much more for their children?

2. Will "supplemental orders" (beyond Basic Maintenance rate) be as difficult to obtain and have enforced as orders are now?

3. Will the legal responsibility of parents to support their children become lost in the bureaucracy, and those entitled to maintenance characterized as alms-seeking supplicants?

tidial spouses work for outside income, the amount guaranteed by the Government Agency will not be decreased, remembering that the guaranteed amount is the share of support owed by the payer spouse?

Maintenance is not an easy subject to deal with. The questions of who and how and when and under what circumstances can easily become entangled in a labyrinth of rules and procedures. Sorting it all out, to just, fair and logical solutions is a task not to be taken lightly by any government.

New maintenance legislation must uphold

the basic principle of mutual parental obligation for their children's support, as is now stated in the B.C. Family Relations Act: "Every parent is liable to support and maintain his children". It is very evident that in both the amount ordered and in its enforcement procedures the existing system has blatantly failed to provide children with adequate support or to enforce the principle that parents must share equally the responsibility of child support.

RECIPROCAL AGREEMENTS FOR MAINTENANCE ORDERS

The B.C. Family Relations Act provides for making orders and collecting maintenance payments when one party resides outside the Province. This Act, in sections 48-60, establishes the rules and procedure for a B.C. Family Court to register an order through the Attorney General to be sent to another Family Court, gathering and transmitting evidence for making judgement varying existing orders, and enforcement.

The law, as it reads, appears to deal comprehensively with the subject of Reciprocal Agreements. However, it doesn't work. SOMEONE in the Government has indicated that the law is good, but you can't get blood from a stone. We say the law may be good, but the administration is lousy.

We find that Courts in other provinces may not cooperate in expediting orders or honouring them. Orders may be ignored or changed without hearing evidence from the spouse making application, and there is no adequate or trained staff to make use of the mechanisms of the Act or to enforce orders that are eventually made.



The topic of Reciprocal Agreements among Provinces should be on the agenda at the next Attorney-General's conference to be held in June, with a serious attempt at finding realistic and workable solutions to this problem. "Getting blood from a stone" is not the problem, as many of the offenders are well able to meet their financial responsibilities. The problem is one of requiring a spouse/parent to fulfill his legal obligation for the support of his family, whether or not he resides in the same province. The Attorneys-General have a responsibility to turn their attention to this matter.

The hardship on the families waiting for their maintenance payments will, nonetheless be alleviated if the Province itself were responsible for the collecting and payment of maintenance orders, through the recommended Collection Agency. We venture to suggest that, should the Province assume this task, it will suddenly discover that stones had a lot more blood than once supposed.

The Unified Family Court Act passed in 1974 amended several provisions affecting maintenance and custody cases in the Family Relations Act which apply throughout the Province:

The occasions under which a judge may make interim orders when an application for maintenance or custody has been made, have been expanded. This helps to provide for emergency situations, i.e. when one party is about to take a child out of the Province.

Another important provision is that now a person can appear before a Provincial Court Judge and request the assistance of a peace officer to apprehend and return a child to that person, when the other spouse is not complying with a custody order. This is an alternative to laying a charge against the spouse.

Many lawyers and court officials do not realize that these provisions apply throughout the Province.

(See the Berger Commission's Fourth Report: "The Family, The Courts, and the Community" for more information)

THE UNIFIED FAMILY COURT

by Linda Sproule-Jones

The concept of the Unified Family Court was designed to eliminate the frustrations, delays, bitterness, and hardship which the current court system seems to add to the burdens of families in crisis.

The basic philosophy of the system revolved around the principles that 1. it is impossible to segregate and isolate the myriad family problems known as Family Law and that these various components ought to come before the same tribunal; and 2. no family matter should enter the formal court process without an effort being made to settle and solve those problems through the process of conciliation. The Judge is the last resource called upon in the solving of conflicts.

In June 1974 a pilot project Unified Family Court was set up in Surrey and Rich-

The Jurisdictional problem of some cases being heard by federally appointed Judges of the County Court and Supreme Court and others by provincially appointed Family Court judges cannot be eliminated by Provincial authority. However, all these judges sit now in the same courthouse, communicate, and make recommendations on cases they may share.

A staff of Family Counsellors begins at the intake level when a person appears to file an application. They provide counselling and/or refer the parties to a wide range of community resources where the problem is medical, mental health, financial etc. They help the family negotiate consent agreements, working out problems of custody and access, separation, maintenance. They have worked extensively in a Police-Counsellor program whereby a counsellor can be called to the scene of a domestic dispute or juvenile delinquency and seek to counsel a solution on the spot. The number of cases which the police referred to the Family Court has dropped significantly.

Where maintenance orders are ignored, the Counsellors through counselling and discussion seek to enforce the orders. The number of cases in arrears dropped from 35% to 10% in Richmond.

Legal advice is provided by two Family Advocates attached to the Family Court. There is no prosecutor. The primary responsibility of these advocates is to ensure the rights of children are protected in any matter negotiated by the parents or adjudicated by the court. They also provide legal advice to the parties and to the counsellors and help the parties obtain legal counsel if their case is to be contested.

The Unified Family Court has also instituted Lay panels consisting of two people drawn from a roster of interested members of the public to sit with the judge on cases dealing with the Protection of Children Act. These cases would be to ascertain the standard of care in the home and it was felt that members of the public coming from the variety of ethnic, cultural and social backgrounds which make up a community would bring a fairer assessment than one judge acting on his own notions. These panels only sit if a request is made by the parties to the case.

No-fault, consent agreements are filed with the Court and, when dealing with matters under the court's jurisdiction, are enforceable as a court order.

The Unified Family Court was assessed after being in operation for a year. The Berger Commission found that the majority of cases which would have been destined for the judge have been resolved out of court, either through conciliation, counselling, referral to a more appropriate agency, or negotiating a no-fault agreement. The cases of maintenance payments in arrears have dropped significantly. The informality and non-adversarial approach of the court, the cooperation between judges of Provincial and Federal court jurisdictions, the involvement of the Community through lay panels, volunteer probation officers and Family and Juvenile Court Committees (to be a liaison between the court referral agencies and the public) have all led to the overall success of the project in working toward the principles intended.

The Berger Commission has recommended that this Unified Family Court concept be expanded to include the rest of the Province.

The Unified Family Court has passed the test - with adequate, interested, and trained staff, families in the rest of the Province should have opportunity for the same scheme.

Information for the previous article was obtained from the Berger Commission's Fourth Report: The Family, The Courts, and the Community.

A CHAT WITH THE DEAN

by Marylen Wharf

Dianne Grimmer and I called on Dean Murray Fraser of the University of Victoria Law School the other day, to talk with him about his philosophy and goals for the school. We found him to be a warm and open person, very willing to talk about the directions he would like the school to take.

He emphasized that this was not a family law school, that this erroneous impression may have come about because of the first year emphasis on statutes and legislation. Other schools usually study common law in the 1st. year, an area in which family law does not reside. As nearly all family law is by statute, this was the obvious area for U.Vic to get involved in, as three of the eight faculty had previous experience in this field. Also, it is an area that touches nearly everyone, and it "sweetens the pill" of studying dry legislation, being an arena of discussion in which the students could have an emotional involvement, either positive or negative. It is also inter-disciplinary in nature, and the Dean is concerned that lawyers do not consider themselves the "Great Givers of the Law" and see themselves as having all the solutions to all the problems. He used divorce reform as an example, stating that before the Roebuch Commission of 1966, it was the clamouring of the Social Workers and the Medical Profession who saw the social and health problems mounting from emotional distress in families that spurred the Law profession to take some action. He also plans to use Labour legislation and Environmental law, as they too carry emotional components which help get students involved. The focus of the school is inter-disciplinary, and more on the human relations and the process side of things than on corporate or commercial law. He added that he felt women should go into corporate and commercial law as well as family law or women and the law.

Because it is an undergraduate school, it does not train its graduates to be specialists. Basic curriculum is fairly stan-

standardized throughout the country and set down by law societies across the land. Certain core courses must be taken, then another 2 dozen or so must be offered during the three year period, but are not compulsory. However there is still a great deal of flexibility, in that although the courses are prescribed, they can be taught in any way a particular faculty sees fit. Dean Fraser uses the team approach and feels his philosophy is reflected in the people he has hired. First and foremost they have to be good teachers and hopefully the scholarship should flow from that, but emphasis is on teaching. They look at the student as a consumer, and the faculty have a range of interests and backgrounds. They also all have a Law reform orientation. Three, including the Dean, have been involved in working with Law Reform Commissions. He said, "three years of undergraduate work hopefully turns out people who can think logically, write, analyze and do research". Specialization usually comes about from "on-the-job" training - practice, then perhaps from Graduate school.

He does not foresee any problems in Graduates obtaining positions for articling, at least not for the next year or two, feeling local firms will be interested in seeing what kind of student the new Law School turns out. He was not so sure of the acceptance of women students by all, especially older established firms. The school currently has an outstanding group of women students and the Dean is pinning his hopes on them to further open the doors of the profession to women.

We were naturally curious about the large number of women students in his school. He was quick to point out that this was an accident and not by design. It was simply that the women who applied were better qualified academically than the men. He gave us a few statistics that we found interesting. For 1975-76 there were 930 applications. Of these, 72 started the year, 71 finished. A remarkably low drop-out rate. The School has a "B.C. first" policy, although they do intend to have representation from all Provinces. Of 520 applications from B.C., only 105 were from women (about 1/5) but offers were made to 35 of them (about 1/3). Twenty five accepted. Of 410 applications from other provinces, 64 were female, 4 had offers and 2 accepted. Ontario alone sent 203 applications - two offers were made, one man, one woman. The woman accepted.

There is a "Special Student" category, for people who normally would not be eligible because of lack of academic credentials. There were 7 or 7 of these last year who applied. Two were offered, both women. Dean Fraser said he had no idea why he was inundated with applications from so many women, many locally, and speculated that perhaps there are a large number of highly qualified women in this community who were just waiting for the school to open, or perhaps they applied to UVic because it is a new school, and felt their chances of acceptance were greater. Dean Fraser gets very indignant when he hears feed-back from the community that his school is going out of its way to recruit women students - that it's a "Women's School". "Not so", he says, "the women were simply better qualified". As I understand it, women want to rise or fall on their own strengths or fall on their own weaknesses". That was the Dean's definitive statement on the women's movement.

We talked about faculty and the difficulty he is having in recruitment. It is difficult to get lawyers from private practice primarily because of salary differentials and it becomes a matter of seeking out the committed person. There are 7 full Professors on staff, and he was hoping to find 5 or 6 Junior people this year, but was able to hire only 3. Because of this, the incoming class this year will be reduced to 44. He hopes this will be only a temporary measure. It is difficult to use part-time staff, "Down-Towners" in the vernacular, during the developmental stages of the school.

He considers the Vancouver People's Law School excellent and effective. His school plans to set up a similar type of "Clinical Agency" here, which will not duplicate the VPLS but cooperate with it. Professor Neil Gold is involved in setting up the clinical programme, whereby the students will be involved for a full term in a clinical setting, actually dealing with people's problems under supervision of Lawyers and other people. Students will get academic credit for this, because they'll be doing academic work. This is not a new concept. Apparently, there are several of these across the country. He feels it most important that students get out into the Community to see how the Law

affects people, to find out what the solutions are and then lobby for change. His only concern about para-legal groups is that people not go beyond their depth.

He is in favour of community Advisory groups, and deplores budget cut-backs that reduce availability of legal aid to people. Professor Gold has a summer programme going, called "Law on Wheels", which should provoke a demand for legal service which has not been heard before. This is a mobile service involving the Professor and two students travelling around the Province, principally the north. They are currently in Dawson Creek. The Pease River Bar Association instigated this project by requesting help from the school. This is one of the advantages of being a new school. There is more flexibility than in an established faculty.

Dean Fraser is very much in favour of a Unified Family Court, having been involved in this area for the Federal Law Reform Commission, and says he has been writing about it and promoting it for years. His last report is currently in the hands of The Honourable Mr. Basford. He has visited the Richmond-Surrey-Delta Court and feels it is working well. He has talked with the Family Advocates and feels this is a concept that should be developed.

All in all, we felt the Law School here is flexible and approachable. So for all you people with even vague "legal" leanings, get your application in. Although I do not feel the Dean's "consciousness" has been raised to any great level vis-a-vis the women's movement in general, or particular for that matter, I felt there would not be any negative judgments made, and women would be judged by the same standards as men - a great leap forward in itself.

CHANGE OF NAME LAWS

by Susan Goldwater

It is impossible for a married woman to change her surname in the Province of B.C. It is also highly likely that no surname other than her husband's may be considered her "legal name". The laws governing change of name are as follows:

4. (1) Subject to this section, a person who is not a minor, and is domiciled in the Province for at least one year, or has res-

ided in the Province for at least two years immediately prior to the date of his application, may, unless prohibited by any of the provisions of this Act or any other Act, change his name upon complying with the provisions of this Act, and subject to sub-section 2, a married man may make application to change the given name of his wife.

(2) If a person is a married man, he shall not make application to change his surname, or the given name of his wife, without first obtaining the consent in writing of his wife.

(3) If a person is a married woman, she shall not, during the life of her husband, make application to change her surname.

(4) If a person is a married man, he may, with the consent in writing of the mother, and subject to sub-section 7, make application to change the given name of any of his unmarried minor children of whom he has lawful custody.

(5) If a person is a married man, he may, with the consent in writing of the mother and of the father, and subject to sub-section 7, make application:

- a. to change the given name; or
- b. to change the surname to his own surname; or
- c. where he is also applying to change his own surname, to change the surname to that surname of any of the unmarried minor children of his wife born prior to his marriage to her of whom she has lawful custody.

As can be seen, this is a flagrant example of the inequality of law in B.C. A married man may change his name, with the consent of his wife, but the same does not hold true for the married woman. A husband may even, with the consent of his wife make application to have her given name changed! It seems illogical that she does not make this application herself, as her consent is required.

As well, "At the present time, married parents do not have an equal opportunity to apply for a change of name for their child. Only a 'married man' can apply". (11th. Report of the Royal Commission on Family and Children's Law - Change of Name, p. 11. - all subsequent quotes come from this document)

The Berger Commission has this to say about the state of affairs concerning

name change. "The inability of a married woman to apply for a change of name creates an inequality in B.C. Law which should no longer be tolerated".

There is indication that although a woman must use her husband's surname as her 'legal name', she is not bound to use it in most day to day situations, as long as her intention is not to defraud. Therefore, should a woman, upon marriage, never use her husband's surname at all, all of her documents prior to marriage would be in the former or maiden name, and there would probably not be any problem in her using that name on most occasions. This can be rather confusing however, as "...it is legally uncertain that retaining her own name constitutes a use of a 'legal name'". "In B.C., the case law suggests that a woman legally takes her husband's surname, no matter what name she uses by custom". Problems also arise when a woman has already used her husband's name and wishes to revert to her maiden name, or to choose another name altogether.

Rosemary Brown, MLA, has proposed changes in the law which would alter this situation. Her Bill No. 34, 1976, CHANGE OF NAME ACT AMENDMENT ACT, 1976 is now before the Legislature. It states:

1. Clause 3 of section 4 of the Change of Name Act, being chapter 50 of the Revised Statutes of B.C., 1960, is repealed.

This would allow a married woman to change her surname. As Ms. Brown is an opposition member, her office holds little hope of the passage of this Bill. However, any and all support of such legislation would be greatly appreciated. People desiring to make their opinions known can write to the Minister responsible for Vital Statistics, Robert H. McClelland - Minister of Health Services and Hospital Insurance, Parliament Buildings, Victoria. As well, letters to your own MLA might aid passage of this Bill. Letters should probably stress the inequalities in the law, rather than any personal grievances.

There will, of course, be arguments and opposition to such legislation, but it is our belief that they can claim little validity. Traditionalists will argue that husband and wife should have the same surname. We would answer that there should be a choice. Some may complain that the option to have a different surname for husbands and wives will

cause undue confusion in record keeping. The Commission speaks to this problem as follows: "Although it has been argued that confusion could result in the business community and government administration because of differing names for husband and wife, we do not believe that these arguments can sustain a patent inequality before the law. We trust that both business and government have the skill and capacity to keep records, grant credit, and distribute benefits in the same orderly manner that operates for unmarried persons. Married women who choose to be known by a legal name different from their husband's should not be denied an equal level of administrative efficiency in this regard." "...we believe that the law should, at least, provide options for persons who desire equality before the law in the choice of a legal name".

For more information refer to the 11th. Report of the Royal Commission on Family and Children's Law - CHANGE OF NAME

THE HOUSESPOUSE AND CREDIT

by Avis Rasmussen

Credit is a privilege accorded to those who provide evidence of a sufficient and stable financial income from accepted sources. Our economic society in Canada is based on credit buying and we are enticed into using credit cards instead of cash. In our system it is also a necessity, as much as having a car.

To obtain credit is simple if one has what society considers a job worthy of pay. The spouse who works in the home often taking care of children has a job that is not considered 'working' or worthy of a wage except at the discretion of the spouse who works outside the home. Therefore the spouse working outside the home must sign for and be held responsible for credit, and the home-working spouse is allowed the privilege of using her/his credit. If the spouse working outside the home pays the home-working spouse a specific monthly sum (wage), then this makes homemaking a job and gives it the respect and dignity this job is sorely lacking at this time. (You are not just a house-spouse!) It doesn't mean however, you can gain credit as a wage-earner.

Partnership in business, and on an economic level marriage is this, provides an income for each partner on some prearranged and legal basis. Surely the present government who base their philosophy on social credit or credit for society, and implement their policies through obtaining credit, can understand the clear and reasonable economic demand for equal economic status in the marriage partnership as specifically presented in the Berger Commission on Family Law.

It has been my experience when asking for credit in my own name from a department store, that a married woman may not receive credit without her husband signing for her unless she has outside employment. The credit bureau has no personal credit rating for the spouse working at home. I can, personally, try to open my own file with them but, of course, must prove an income or employment, and lose, in my case, 16 years of credit standing by having paid in the name of my husband. Has anyone else had this experience - are there other ways of dealing with this matter?

Credit is of concern to me since I do not like carrying much cash. Cash is not traceable if lost or stolen, and travellers cheques not sensible to use around town. To shop for a family of 7 requires a good sum of money. Often time is at a premium when family buying, which requires fairly quick decisions when one sees a bargain, or a necessity, or a gift one had not expected to purchase, which then requires ready cash or the alternative, credit. Banks close at three, and are closed on weekends, and to write a cheque one must have identification, a credit card being the easiest means. One is often recognized as a person by one's credit.

Anyone working anywhere; at a bank, for a school board, for the government, for themselves - simply receives money from someone else. That 'someone else' may go bankrupt, may dismiss the employee at a month's notice, may go on strike. In short, that person who gets credit so easily by having employment outside the home is not anymore secure or responsible than the spouse working at home who, receives payment/wage from the 'employed' spouse. To put this on a personal level, I have always been paid a specific (according to our financial situation) sum for maintaining the household and caring for the children which I budgeted to include, as well as the

family's pleasures and education, my own personal pleasures and education, as does anyone who works. When my partner began a business and all the money was invested in it, I continued working outside the home to provide my income, as well as working in the home and caring for the children. Many people do this. My education, skills and inclinations were not toward the family business, so apart from an advisory capacity and the usual part time helping, I decided to update my credentials in my own professional field. I am perfectly employable outside housewifery and child care, but found when I had two jobs that I tended to organize the life out of life, especially with underschool-age children.



"According to my schedule, you were not supposed to need a new diaper for 15 minutes! Now let's get organized!!!"

The monthly payments I receive I have always earned - as do most people who work. I consider myself completely responsible for handling any household commitments and get the advice of an accountant for anything beyond my capabilities - as would anyone who handles money. However, 16 years of handling household accounts, 20 years of having my own bank account and 9 years as a Director of a local industry has little impact on obtaining my own credit as a married woman. To obtain a loan from my bank I must have my spouse sign because the bank considers that he is the one who earns the money.

A marriage partnership is considered an economic unit and credit is the privilege belonging to the spouse working outside the home who may extend it to his/her spouse and children.

The other day I obtained my first personal credit account. It was from a locally owned store which knew my husband and his business. However, it took a legally written separation agreement between my spouse and me to obtain my personal credit account.

Don't you think a legally written agreement before marriage, such as is suggested by the Bergér Commission in the Report on Family Law would improve economic equality ?

I would like to receive any information anyone has on this matter.

Avis Rasmussen
3050 Uplands Rd.,

A CASE FOR EQUALITY

BY Linda Sproule-Jones

In the long evolution of legal history, notions of women as chattel, women as dependent, women as lesser beings than men have determined the status of women and have been slow to change.

The right to vote was granted after a long struggle, the right of Canadian women to sit in the Senate was granted only after a court reversed a previous definition and ruled that, in fact, women are Persons. Equal pay for equal work has still to be achieved.

The basic assumption underlying Family Law is still the dependency of women. Throughout the ages married women have been non-persons - they couldn't own or control property, they could not write wills, they were placed in the same legal category with infants and lunatics as people needing an executor in handling their affairs (it was only in the past couple of years that the B. C. Government removed 'married women' from from that exact classification in the Partition Act). Thus, when the Married Women's Property Act was passed in the last century allowing married women to keep their separate property after marriage, it was a significant piece of legislation. However, it didn't change the basic assumption that a married couple was ONE and that 'one' was the husband. It merely allowed an exception to the rule. Most succeeding legislation has also been in the nature of "exceptions" to the rule of dependency.

The Berger Commission is unique, not so much because it proposes a community property system - varieties of these have been proposed in various places - but because they base that proposal on a new and radical legal assumption: that marriage is a partnership of equals.

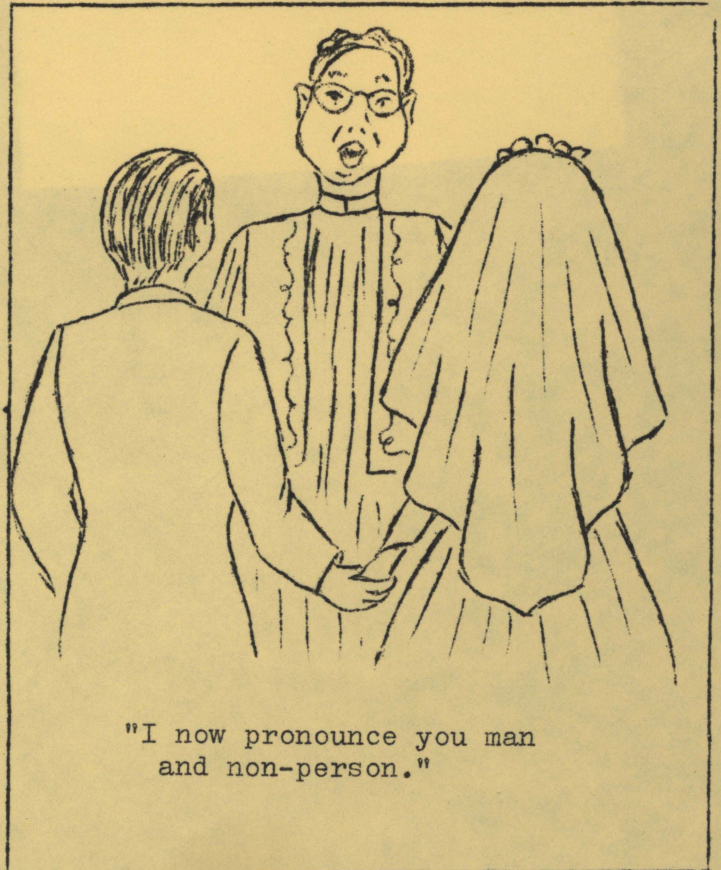
If this proposal is enacted, then the

assumption about married women will be turned around. Any decision made by the legal system will have to reflect the equality of the partners in a marriage. This basic philosophy will eventually have far-reaching effects on attitudes and policies toward women in marriage and in society.

If the legal system views married women as equals of married men, what law can continue to allow a married man to change his name and not a married woman ? What credit company can have the right to ask for your husband's signature ? What pension plan can justify paying your husband more for his dependents than you for yourself ?

It is of vital importance that the concept of Equality and its far-reaching effects not be obscured and lost in discussions of the technicalities of administration. The positive statement of equality is primary. If it is adopted then all the rest will sooner or later fall into place.

Women will no longer give up their status of "Person - Equal under the Law" when entering marriage, and thus cannot be viewed by or in society as having done so.



"I now pronounce you man
and non-person."

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