



Alimony is degrading says Dr. Elizabeth Brodie

## Panel examines high divorce rate in Canada and U.S.

By AGNES KRUCHIO

Fully one-third of all marriages in the US and perhaps one-quarter of those in Canada end in the divorce court.

In light of this statistic, a public forum was held Oct. 24 on the topic of Husband and Wife to examine the legal and emotional repercussions of alimony and maintenance laws. Members of the panel included a psychiatrist, and four lawyers.

The five panelists gave answers to questions aimed at the weak points of the present system: Are husbands shortchanged by our present alimony laws? Are the traditional reasons for alimony outmoded? When should women have to pay alimony? Should women be forced to work rather than collect alimony? Should husbands and wives be equal partners in the division of property?

Under the present system, a wife can sue for alimony only if there are sufficient grounds — adultery, cruelty or desertion. It is usually based on need on the one hand and ability to pay on the other. The judge decides the amount of the alimony.

### Typical divorce situation

All of the lawyers on the panel have had considerable experience in family law. One, John Jennings, stated the problem as follows: the typical situation involves a marriage of 15-25 years, the children have grown up and the marriage breaks down. The situation finds the wife, now in her mid-forties, out on her own without any skills to fall back on, having hitherto been only a housewife and mother. She needs some funds to allow her to live her life in some semblance of dignity.

Jennings then suggested a "damages" concept to replace that of alimony. This would be one lump sum that would allow the spouse to rehabilitate herself to a position similar to the one she had before marriage.

Jennings said he believes even if husbands are shortchanged it is not the fault of the law.

### Women paying alimony

On women paying alimony, he said he had only heard of one case. He suggested that if a woman had any skills she should be "encouraged" to use them. As to division of property, he suggested the California model of joint ownership where everything is common from the time of consolidation of the marriage.

The next speaker, Phillip Isbister, Q.C., deplored the present alimony laws which are, he said, that of 1857 England. The real cause of marriage breakdown is incompatibility, which could arise after years of marriage when the partners have drifted apart.

This does not, however, give either spouse the right to life-long support.

Most husbands, Isbister says, are being shortchanged by the present alimony laws. Marriage is supposed to be a partnership. This is the only partnership I ever heard of where, after the dissolution of the partnership one party has to support the other for the rest of his life.

### Ontario family law outdated

Lee Ferrier, chairman of the family law subsection of the Ontario Bar Association, agreed that most of Ontario family law is outdated. Few husbands escape where many should. Often, wives refuse to discuss a reasonable settlement since they have nothing to lose by suing for alimony — if they win, they even win the court costs. This, he said, in the case of a year long suit, can run anywhere from \$14-18,000. He suggested that the wife be made liable for at least her court costs.

Under present laws the wife can have a court order issued for interim alimony — between the time of separation and the lawsuit. This practice slows down the lawsuit considerably, Ferrier stated.

Dr. Elizabeth Brodie, a psychiatrist who also teaches in York's Environmental Studies, discussed the emotional impact of paying or receiv-

ing alimony.

She said alimony is degrading, as it implies the wife has no human potential to support herself, and that she can avoid, in a childlike dependent way, any responsibility for the breakdown of her marriage.

The legal contest is then turned into a contest of blame, which is aided and abetted by the lawyers. The present legal system is an adversary system — there can be little reconciliation under it.

### Dependence arrests growth

"In women, the dependence on support arrests their further personal growth and independence. They can-

not get out of a childlike state of existence. The feeling of being dependent and suppressed creates chronic anger — and the ability to love and chronic anger cannot go hand in hand. This in turn affects all those who come into contact with the divorced woman, with far reaching consequences.

Brodie believes that under the present system husbands are cheated. Women should pay alimony under the same circumstances as men. The breakdown of a marriage is not a crime, and should not be treated as such," she said.

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