

**Panelists say reforms don't help women**

# Family law debate packs them in at Osgoode

By HUGH WESTRUP

The current controversy surrounding family law reform was brought before a large audience in Moot Court, Osgoode Hall last Wednesday. A panel discussion, sponsored by the York Women's Centre, focussed on a number of issues involving distribution of family assets and support following separation which have been raised by the Ontario Status of Women Council.

Panel member, Harriet Sachs, who works in an all female law firm said the proposed Ontario Bill 140 dealing with family law reform "fails to address itself to the majority of issues which women encounter both during marriage and upon marriage breakdown".

She and another panel member, Dr. Esther Greenglass, a York psychology professor, were particularly disturbed by proposals regarding property ownership. Under the new law only a share of what are termed "family assets" will be given to the female spouse, and this provision will occur only in the event of marriage breakdown. Family assets are designated as those that are used by both spouses during the course of a marriage. Co-ownership of these assets will not

legally exist during the marriage.

Sachs said, "The bill demeans the woman's contribution to marriage. It perpetuates the myth that the woman's contribution to the family welfare stops at the door of the home."

"It is artificial to divide the contributions made by each spouse by dichotomizing home activity from business activity. This division creates an incentive to shelter assets outside the home into stocks, bonds and the like. This certainly is an incentive to business."

"If a woman, by her ability to economize on household expenses allows her husband to use the liberated funds to buy stocks and bonds, she is not entitled to profit from these investments unless she produces detailed financial records of her savings, an unrealistic task in the context of a trusting marital relationship."

"The bill caters to the myth that as long as the woman is happily married she is content not to have her own independent source, use and assurance of assets. This limits her ability to get credit and make investments. Psychologically and economically she is not an independent member of society. It is my opinion that she should be able to



Bryon Johnson photo

Esther Greenglass was on the panel discussing family law at York.

reap the benefits of the work in a marital relationship".

Commenting on the bill from the assumption that marriage is a full and equal partnership, Greenglass said that "even though the contribution of the spouses may be different in kind, nonetheless they are equal."

"In a traditional marriage the man is probably the only one who has accumulated the capital, while the woman continues to raise the kids, tender the home and virtually do all the tasks which enable him to

function in the breadwinner role.

"All financial assets should have to be shared equally, 50-50, both during marriage and after marriage breakdown."

Both women are also concerned that support provision will still incorporate the concept of fault. They believe that the only conditions to be considered when deciding how much support is to be paid are need and the ability to pay.

Said Greenglass, "If a woman claims for support after marriage breakdown, she has to prove to the court that she was a good girl during marriage. Support then is conditional on her having to conform to what some judge thinks is appropriate behaviour for a wife."

"The new bill proposes to broaden even more the judicial discretion in almost every situation after marriage breakdown. This is a matter of great concern since, God help us, judges are only human and as such they vary considerably in their sensitivity to the psychology of marriage, the role of women in marriage, and the psychology of women."

A third panel member, York Law Professor, Simon Fodden elaborated on the concept of support obligations.

He described the dilemma of the woman, who in order to qualify for support must bring court action against her husband. Although the

proposed bill permits the public agency to bring the action, it does not require it to do so. Therefore, the woman is often required to collect the public agency's debt."

Fodden also said the problem of support is fundamentally related to social justice.

"We should be moving toward a system whereby the community is responsible, rather than doing as this bill does, extending family responsibilities to people who live in informal marriages and as well reiterating filial responsibility for parental support."

Speaking on behalf of the lawmakers was Larry Grossman, Progressive Conservative MPP and parliamentary assistant to the Attorney General. In defense of the proposed legislation, Grossman said "Bill 140 does not impose hard and fast rules upon everyone in Ontario. The views expressed by the other speakers does not express the prevailing view among very many smaller ethnic groups who have widely divergent views on how they want to order their lives."

"These groups, if we were to move to full community, would have forced upon them a division of assets that they want no part of, that they don't understand and that they don't sympathize with and that is a drastic interference in their lifestyle."

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