

PUTTING ROMANCE ON TOP

by Terri Jackson

"FUTURE BRIDE: Is that Physiology class flirtation promising a Christmas diamond and June wedding bells? If so, now is the time to draw up a marriage contract—just in case."

Like all too many prospective brides, Hildegard Hamhocker is so caught up with the romance of romance that she doesn't give much thought to what happens once the romance ends.

And her Husband-Hunter's Handbook is too preoccupied with "the chase" to give her sound advice about the liabilities of a woman's legal position in marriage.

Let's face it: our romantic notions of love and marriage make it hard to go to one's true love and say "Look Charlie, we've got to be realistic and make plans about what happens should we ever decide to split up."

But if the two of you can't face that reality, how are you going to handle the heavy decisions like who's responsible for taking out the garbage?

Difficult as it is to imagine your undying love developing rigor mortis, difficult as it is to talk about that possibility, a recent decision in the Supreme Court of Canada should give women in particular some second thoughts about going into that "honourable estate" with stars in their eyes.

Murdoch vs Murdoch

In the Supreme Court case, Murdoch vs Murdoch, a woman who had worked beside her husband for 20 years building an ever larger and more prosperous ranch, was left by the court with no claim at all to the property she had helped her husband acquire.

The problem is that marriage laws still cling to Victorian notions about marriage and the proper role of women. While there are a number of laws which deal with the rights of wives on the death of their husbands (the Dower Act, the Family Relief Act), the chief offenders are those that deal with marital breakdown. These laws cover two categories: maintenance and property.

Superficially, maintenance laws seem to favour women. Antiques left over from the time when middle class women were sequestered in the family home and had no prospect of earning an independent income, maintenance laws require that a husband support his wife.

Alimony vs maintenance

After separation, this support is called "alimony", and after divorce it's called "maintenance." Maintenance, which is under the federal Divorce Act, is reversible—that is, a working wife may be required to support a homebound husband; but under the Alberta Domestic Relations Act, wives can never be required to pay husbands alimony (support after separation but before divorce.)

The catch is this: alimony is contingent on a wife's good behaviour—or more bluntly—whether or not she can be proven

to have been adulterous. If a husband can prove adultery before or after the separation, he is relieved of his responsibility for supporting his wife. Maintenance is contingent on a broader thing called her "conduct" but also takes her sexual behaviour into account. Sounds like neat stuff for detective-at-the-keyhole fiction, huh?



Tom Ryan

Property

But the real problems arise in that second category: property. When a marriage breaks down, who should get how much of the property accumulated during the marriage?

Ironically, a legal principle which was originally a progressive step in giving married women equal rights is now one of the major impediments to fair treatment.

That principle is separate ownership of property and quite simply it means that property belongs to whomever holds the legal title. It was a reform at a time when a woman became a ward of her husband and lost all right to own property when she married. Separation of property gave married women the same rights as unmarried women in disposing of property (such as an inheritance) owned in their own name.

But again, there's a catch. Stars in their eyes (and a childhood of hearing people tell them that little girls are never good in arithmetic) convince many women to leave family financial matters to their husbands.

If he is well-meaning, the husband may not know the consequences of placing family purchases such as the car, the television, in his name only. If the marriage turns sour, he'll shrug and think to himself "lucky it worked out that way."

If he's not well-meaning in the first place, he may argue that the salary he earns outside the home entitles him to legal ownership of things his wife considers "ours."

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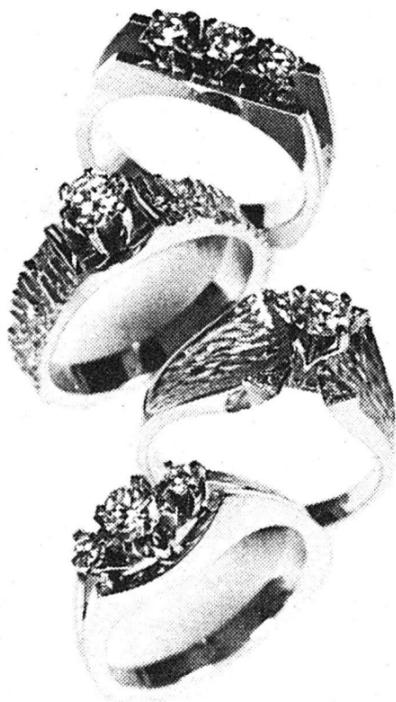
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