

NATIONAL THEMES IN FAMILY LAW

By M.E. Hughes and E.D. Pask, eds. (Toronto: Carswell, 1988) pp. V + 289.

This book is a compilation of papers given at a conference sponsored by the Family Law Subsection of the Canadian Association of Law Teachers. The conference, entitled "Family Law in the 1980's: Persons and Property", took place in April 1987.

The papers are well written and well researched, but the subject matter of the papers is such that less than fifty per cent of the book will be of interest to practitioners. Having said that, the book will be a useful source for academic research, and would be a useful addition to public law libraries, both at universities and court-houses throughout Canada. Moreover, there are some papers that are of interest not only to lawyers, but also to non-lawyers. In particular, the paper on divorce mediation by Julien Payne and Eileen Overend would provide a useful overview for someone considering mediation to resolve a personal problem.

The book is divided into three parts. The first section deals with issues on divorce and separation. This section contains a useful article by Professor Rogerson who, in examining the economic consequences to the parent who ends up with the children on divorce, brings into question our present property and support laws with their facially neutral provisions, but *de facto* discriminatory results. Professor Ziff has contributed a helpful article on the very topical issue of tracing matrimonial property, probably the "hottest" topic in current matrimonial litigation in Alberta. The discussion of tracing models from other jurisdictions makes this one of the most useful articles from the point of view of a practitioner. Professor Holland's article on the first year of litigation under the Family Law Act, 1986 is of interest family law practitioner both inside and outside Ontario since the issues that she discusses, particularly the question of division of "career assets", are applicable to all provincial matrimonial property laws.

The second part of the book deals with the law and the elderly. Two of the papers focus on economic issues facing the elderly, one by Professor Freda Steel dealing with filial responsibility laws, and the other by Professor Diane Pask dealing with the effect of pension splitting legislation on the elderly. This last article is of interest to practitioners insofar as it contains an interesting discussion of the effect of the recent changes in the Canada Pension Act. The other two papers in this section are by Professors Margaret Hughes and Donald Poirier, and focus on personal guardianship and adult protection laws. Both articles make extensive examinations of these laws, both arguing that Canadian provinces, other than Alberta, need new personal guardianship laws which better balance the civil rights and freedoms of elderly citizens with the duty to care for the incapacitated elderly.

The last part of the book is oriented towards law reform and deals with a number of disparate topics under the heading "New Visions of Current Issues". The first paper from Justice Linden and Joyce Miller discusses proposals for the reform of Canadian abortion laws. The second paper by Professor Christine Davies is an excerpt from her research paper prepared for the Institute of Law Research and Reform on the laws applicable to people cohabiting outside marriage. The third paper is an analysis of how Quebec courts attempt to determine "the best interests of the child" in divorce, child protection and young offender cases. In addition to a statistical profile of the families involved in such cases, the type of professional evidence made available to the courts in the different cases is discussed. The final

paper by Professor Nicholas Bala is a comparison of Canadian and American legislation in selected areas of family law, accompanied where appropriate by a discussion of differing judicial approaches in the two countries. His conclusion is that while there are many similarities between the laws in the two countries, Canadian family law in some areas is significantly different, our more liberal approach arising from our more liberal and pluralistic society.

In conclusion this collection of essays highlights some of the problem areas of family law in the 80's. The papers read well, and show the results of careful research and editing. It is, however, a book that will be of more interest to academics than to legal practitioners.

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