



Will Justice Scurfield's decision help fuel the return of Justice to domestic violence courts?

By Rosemary Underwood

A recent court decision in Manitoba has given some indication that possibly the winds of change may be blowing and starting to clear out the rancid air of bias and injustice that has stagnated courts across Canada.

In a surprise decision, which may be an indication that the tide has begun to turn with respect to the contemptuous anti-male bias of Canadian courts, Manitoba Queen's Bench Justice John Scurfield struck down two sections of that province's Domestic Violence and Stalking Prevention, Protection and Compensation Act.

Section 12.2 of the act put the onus on the *accused* to demonstrate, on a balance of probabilities, that a protection order should be set aside. Defense lawyers have complained for years that the act essentially *presumed* guilt by requiring those accused of stalking or abusing to prove their innocence. The Act clearly flew in direct contradiction to the very foundation of Canadian jurisprudence that one is supposed to be innocent until proven guilty.

Section 12.3 three of the Act dealt with the victim. Previously, testimony could be provided by a sworn affidavit or audiotape. The accuser could make their accusations without ever having to face the accused in a court of law. People who applied for a protection order to restrict the rights and freedoms of others will now have to testify in person if the alleged stalker and by association, abuser, asks for a court review.

Pointing out "The same scenario exists in criminal proceedings where there is assault or abuse or charges are laid against an abuser," Manitoba lawyer Rosemary Hnatiuk said, "The victim does have to go to court. Unfortunately, that's how the system works. You can't have a blanket weapon

that gives total power to one side".

Although Justice Scurfield's decision refers specifically to Manitoba's laws, similar laws exist in other Canadian provinces which are just as repressive and draconian.

Ontario has Bill 117. This bill has been referred to as the "shout at your spouse and lose your house" law. Literally, a man can be forced out of his home by his female partner for just yelling at her out of anger or making some stupid remark at her. In fact, many men who have been forced out of their homes for this reason are unable to return to their work, to their communities or even see their children, sometimes for many months.

In one case involving a Burlington, Ontario family, the father was forced out of his home for a year and a half – even after his wife wrote to the Crown and had advised them that the police had put pressure on her to make statements against her husband which were not true.

Ontario MP Roger Galloway has described Ontario's Bill 117 as "draconian" legislation. The Bill is entitled, "An act to protect victims of domestic violence" was passed in 2000 and allows intervention orders based on sheer *allegations* of violence by a party.

The consequences of this frequently abused law are an indictment of the entire justice system, the foundation of which rests upon the premise that perjury is a serious crime. But until now the courts have clearly ignored these perjurers, many of whom are wives who have been counseled to commit perjury by unscrupulous lawyers who, in a just society would also be prosecuted for their role in the crime. When we fail to prosecute perjury for the crime that it is our entire justice system

collapses. One of Ontario's Judges, Justice Mary Lou Benoto has stated that perjury is "rampant" in our courts and that it often goes unpunished.

As tens of thousands of Canadian men who have been falsely accused by their former spouses can testify, a totally one-sided power has been the norm in Canada for decades. Totally distraught by the false accusations of abuse levied at them by women they once loved, unwarrantedly deprived of access to their children, many of them add to the statistics of the approximate annual toll of 2500 suicides of Canadian fathers from broken families.

Adding to this equation is the fact that the issue of domestic abuse has been blown so profoundly and unfairly out of proportion by the feminist movement to advance its own agenda in family courts that it is no longer possible for males in Canada to achieve any degree of justice in their own country.

No judge has the time or courage to gamble that the alleged abuse may never have happened. These lax and uncaring judges would rather condemn a thousand fathers without the benefit of due process than chance one homicide. But this is not justice.

Abuse cases have no place in family-court settings where there are no protections for the accused. Those accused should be tried in criminal court for the crimes that they are. There, the accused would at least have his day in court and, if convicted, receive an appropriate penalty.

The way it is now, many innocent fathers are stripped of everything they own or hold dear, too many of them driven to suicide by the injustice they encounter in our courts, and numerous children are deprived of the dads they adored. Too often the children also become victims as they add to the startling statistics of the adverse social consequences of fatherless children.

Hopefully, the tide is turning. Research is beginning to provide formerly unsuspected truths and statistics are being accumulated to

substantiate the great injustice being done to many good and innocent men in Canada. More and more women are standing up and demanding fairness for all. When Justice Scurfield, recognizing the travesty of justice involved when litigants lie and, ignoring the traditional feminist dogma which has dominated our courts for decades, made his courageous assessment of the perjury involved, he may have unconsciously ushered in a great renaissance in Canadian justice.

The once powerful radical feminist movement has compromised their cause by a history of deceitful tactics such that their previous anti-male influence on the courts is dwindling and no longer presents the threat it once did. Perhaps a new era of justice is dawning in which judges will no longer be intimidated by radical feminist, anti-male doctrine and Canadian males will receive their long overdue right of achieving justice in our courts.

Injustice has many widespread ramifications. Martin Luther King, Jr. once stated, "Injustice anywhere is injustice everywhere" and Pope Paul VI has said "If you want to work for peace, work for justice."

Hopefully, Justice Scurfield's decision to strike down Manitoba's repressive and draconian law will prompt similar decisions by judges in other Canadian provinces. Few would disagree that the return of sanity and most of all, Justice, in our domestic violence and family courts is long overdue.

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