

# New Family Law: estate planning in for change

by **ROBERT P. MAIN**  
 Bill 1, the new Family Law Act which comes into effect in Ontario on March 1, 1986, will have a deep impact on estates and wills.  
 One major innovation is that for the purpose of a division of "net family property" (the new phrase for the value of

matrimonial property), the death of a spouse will be treated the same way as a separation or divorce. One problem this will cause is that it may catch a lot of people totally unaware.  
 Usually when a couple is in the process of separating, they generally know about their rights and

obligations. Often they have obtained legal advice, or have discussed some of the ideas with family and friends, or have seen the issues discussed in the media.  
 However, in the situation of an estate, so many people are not going to realize these changes in the law until

it is too late.  
 Let us consider a typical situation of an elderly couple, and all the assets are in the husband's name. He passes away and his will leaves the wife a life interest in the estate, and then after her death, the remainder of the estate will go to their four children.

The widow goes to a lawyer to administer the estate, and he tells her that under the new Family Law Act 1985, her husband's death is to be treated as a separation, and that she is entitled to one-half of the net family property. The life interest in the husband's estate only gives her the right to use the income from the property for herself, and likely the use and occupation of the house as well, and so is far less than half of the value of the estate. The result, if the widow elects to take her rights under the Family Law Act, will be a law suit between the widow and her children, the beneficiaries.

Another major change in a different context is what happens to the bequest after it has been received. On the one hand, the beneficiary will not have to include the asset (or the value of the asset, if it can be traced) in his own net family property if he ever should separate.  
 On the other hand, any income from the bequest (such as interest, or rent from a real estate property) shall be included in the beneficiary's net family property, unless the deceased expressly stated that such income is to be excluded from it.  
 So you can expect that the next time you go to see your lawyer to draw

up a will, and you want to leave part of your estate to your children, the lawyer will ask you whether or not you intend your children to include the income from that bequest as their net family property in the event they should die or separate from their spouses.  
 There are hundreds and thousands of wills in existence, sitting in safety deposit boxes and lawyers' vaults, that are going to be affected by the new Family Law Act.  
 Everyone would be well advised to give some thought to bringing their wills and estate plans up to date in light of the new law.

**Robert P. Main,** is a partner with **Teskey, Heacock, Ferguson & Main** and practices in the area of Family Law.



## He's got that \$1,000 smile

Penetang resident Tom Adair has two reasons to smile, not only is he surrounded by three lovely young ladies, but the number of his Penetanguishene Winterama button (1097) was drawn making him \$1,000 richer. Tom is pictured here with (from left to right) Winterama Queen

Tammy Gibbons, Princess Nancy Beaudoin and Princess Simone Desroches, just moments after Tammy pulled his ticket out of the 2,500 tickets in the Normandy Room of the Royal Canadian Legion Branch 68 in Penetang shortly after midnight on Saturday.

Chalk up another busy week for Midland OPP  
 During the week ending, Feb. 10, Midland OPP investigated 66 general occurrences and probed 14 motor-vehicle accidents.

## Seven municipalities notify Cabinet

On the last day of the recent sitting of the provincial Legislature, each member of the Liberal Cabinet, the leader of the opposition in the Legislature, and Simcoe East MPP Al McLean and Simcoe Centre MPP Earl Rowe, received a telegram from one of seven area municipalities, objecting to proposed changes to the local provincial riding borders.

The telegrams said that local municipalities were denied the opportunity to express their views on the proposed changes.  
 The Ontario Electoral Boundaries Commission's revised recommendations for altering provincial riding borders, to allow for five new ridings, will be presented to the Legislature in the spring.

# AUCTION ACTION

# 526-0124

USE THIS NUMBER TO PHONE IN YOUR BID

AUCTION . . . Getting U into ACTION

USE THE ABOVE NUMBER TO PHONE IN YOUR BID

# ROTARY CLUB

# TV-RADIO AUCTION!

CABLE-12

CKMP-1230

MACLEAN HUNTER

## MONDAY FEB. 24-5 TO 11 P.M.

# A DYNAMITE SALE

☆☆ We're blowing the roof off . . . prices on Zenith SYSTEM 3 and CUSTOM SERIES ☆☆☆

MODEL SB2523G

Cabinet size: 28 1/2" H, 36 1/2" W, 17 1/2" D (72.2cm. H, 92.7cm. W, 44.7cm. D). Add 2 1/4" (6.7cm) to depth for tube cap.  
 Also available in light oak finish as SB2523K.

Space Command SC6500 Remote Control  
 A striking Contemporary styled console with swivel viewing convenience. Carefully selected, richly-grained wood veneers on top and sides are framed by hardwood solids and finished in Nutmeg Oak. Formed left and right speaker grille cloth in matching color. Wood veneer swivel base in matching finish. Cushion glides.

Dynamite values on Zenith VCR's.

The quality goes in before the name goes on.

Reg. Hours:  
 Mon., Tues., Wed.,  
 Sat., 9 to 6  
 Thurs. & Fri. 9 to 9

**JERRY'S RADIO & T.V. OF BARRIE LTD.**  
 342 BAYFIELD ST BARRIE 726-0551