

## EDITORIAL

This year has been designated by the United Nations as International Year of the Family. Perhaps the most visible signs of this in New Zealand have been on radio and television, where polished slogans have reminded us how important the family is (and how socially responsible the sponsors are). To some extent, the Year of the Family has appeared to be no more than a marketing exercise, and as a marketing exercise it could hardly have competed with the countless other “products” demanding public attention.

So it is ironic that this year has seen people’s minds turn finally, and often painfully, to the issues of domestic violence, incest and child neglect. The irony is that this was achieved not by any governmental commitment, but by the New Zealand film *Once Were Warriors*. The film, based on Alan Duff’s novel, confronts audiences with a brutally frank depiction of the “family life” faced by many New Zealanders. Those who have seen the film may forgive the cynicism of Sir Edmund Leach:<sup>1</sup>

Far from being the basis of the good society, the family, with its narrow privacy and tawdry secrets, is the source of all our discontents.

While it may put the point a little high to attribute “all our discontents” to the family, for many the reality of family life is far from the world of urbane slogans. Addressing this reality is the responsibility of all.

This symposium demonstrates that lawyers can have a role to play in addressing the difficulties facing many New Zealand families. Jessica Yelas laments the demise of the mandatory reporting proposal, which was aimed at reducing child abuse. She attributes the result to notions of family privacy, and asks why the family should be thought a “danger area for government”. Jean-Benoît Zegers and Catherine Price document the success of the Children, Young Persons, and Their Families Act 1989 in instituting a new paradigm of justice for children and young people in New Zealand. While praising the successes, the authors point to some areas which require further attention. Family lawyers are often faced with difficult ethical dilemmas, for example when representing an abusive parent in custody proceedings. Robert Enright proposes an approach to legal ethics which assists in such practical dilemmas. Emily Henderson criticises the Court of Appeal’s failure to resolve an important conflict between two High Court Judges over the courts’ approach to child custody hearings where sexual abuse is alleged against a parent. Rochelle Urlich argues that s 59 of the Crimes Act, which gives parents the privilege to use physical discipline on their children, should be repealed. Cherie Phillips concludes that the Children, Young Persons, and Their Families Act 1989

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1 “BBC Reith Lectures” *Listener* (30 November 1967).

must be amended to make it clear that, in care and protection proceedings, the interests of children are always paramount.

In a lecture entitled "Beyond Bread and Butter", Karl Llewelyn said:<sup>2</sup>

There is a brand of lawyer for whom law is the making of a livelihood, a competence, a fortune. Law offers means to live, to get ahead .... Such [lawyers] give their whole selves to it, in this aspect. Coin is their reward. Coin makes it possible to live. Coin is success, coin is prestige, and coin is power. Such lawyers, I take it, reflect rather adequately the standards of our civilization. They have perceived the mainspring of a money economy .... Coin is, in this society, the measure of a [person].

This symposium is not for such lawyers. Certainly Family Law has never provided a fast route to "success" of this kind. Many of the issues raised in the following six articles will continue to challenge us in years to come. A commitment to solving these and similar issues may result in a different kind of success for the future.

Simon Mount  
Auckland, August 1994

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<sup>2</sup> Llewelyn, *The Bramble Bush* (1960) 119.