

The push for 'high-octane' marriages

An American state rolls back the divorce revolution by re-establishing life-long covenants

The Evangelical Fellowship of Canada has been circulating a petition this summer, asking Ottawa to establish a legal definition of marriage. The group expects to gather 18,000 signatures requesting that marriage be defined as the legal, voluntary union of "one man and one woman to each other, to the exclusion of all others." Given the recurring attempts of the social left to win marital status for any number of diverse individuals, this definition could serve as a break-water against any further erosion of the public status of the family. Yet, in comparison to the traditional definition of marriage, it ignores one crucial issue: duration.

Since the introduction of "no-fault divorce" in Canada 30 years ago, the rate of marital break-up has soared 600%. A third of marriages fail, and over a third of those break-ups involve children. One-fifth of Canadian children have lost a parent to divorce, with an effect that some sociologists now say can be "worse than a parent's death." Divorce is consistently associated with juvenile emotional disorders, crime, suicide, promiscuity and later marital break-up.

Despite the carnage, the repeal of "no-fault" has never become a public issue. Now, however, the first glow of renewal may be on the horizon. This summer, the State of Louisiana becomes the first legal jurisdiction in the Western world to roll back the divorce revolution.

On August 15, its "covenant marriage" law comes into effect, once again permitting men and women to bind themselves for life.

"This is about choice," says law professor Katherine Spaht of Louisiana State University, who helped draft the new law. "For over a generation people have not been able to marry for life. Now, they have the option of a more permanent covenant. They don't have to take it. They can still get married under the [no-fault divorce] law. But if they want to marry for life, now they can." Under the new law, a couple registers for a covenant in the process of applying for their marriage licence. They must then procure a notarized document, proving they have undergone preliminary counselling, and declare that they both understand the permanent conditions of their bond.

"We've been sensitive to the possibilities of abuse, marital violence and other sorts of breaches of the covenant," insists Prof. Spaht. Under Louisiana's existing "no-fault" law, either party can file for divorce after a six-month separation. Under the new alternative, the covenant is considered "breached" only in cases of adultery, serious criminal conviction, violence, sexual abuse, "habitual excesses" or a three-year abandonment. Unlike "no-fault," only "non-breaching" spouses can file for divorce. "We believe it's necessary to find fault with the person responsible for breaking up a marriage. If, having

Louisiana law a historic development. "This is the first legal jurisdiction to beat back the no-fault revolution," she says. "There's a consensus now that a 50% [American] divorce rate is bad for kids. This law even lets people in a 'low-octane' marriage change over to the 'high-test brand,' like when they're having children. The only people who hate it are the lawyers." Some 20 American states now have "covenant marriage" movements, in various stages of organization.

Vancouver lawyer Iain Benson of the Centre for Renewal in Public Policy warns that a "covenant marriage" amendment in Canada

would have to be passed at the federal level. But should it become law, it would almost certainly survive in court. "The Supreme Court ruled in *Egan* [in 1995] that Parliament may treat married couples differently than unmarried couples, given the beneficial purposes of marriage. They shouldn't have any problem in distinguishing between different grades of marriage."

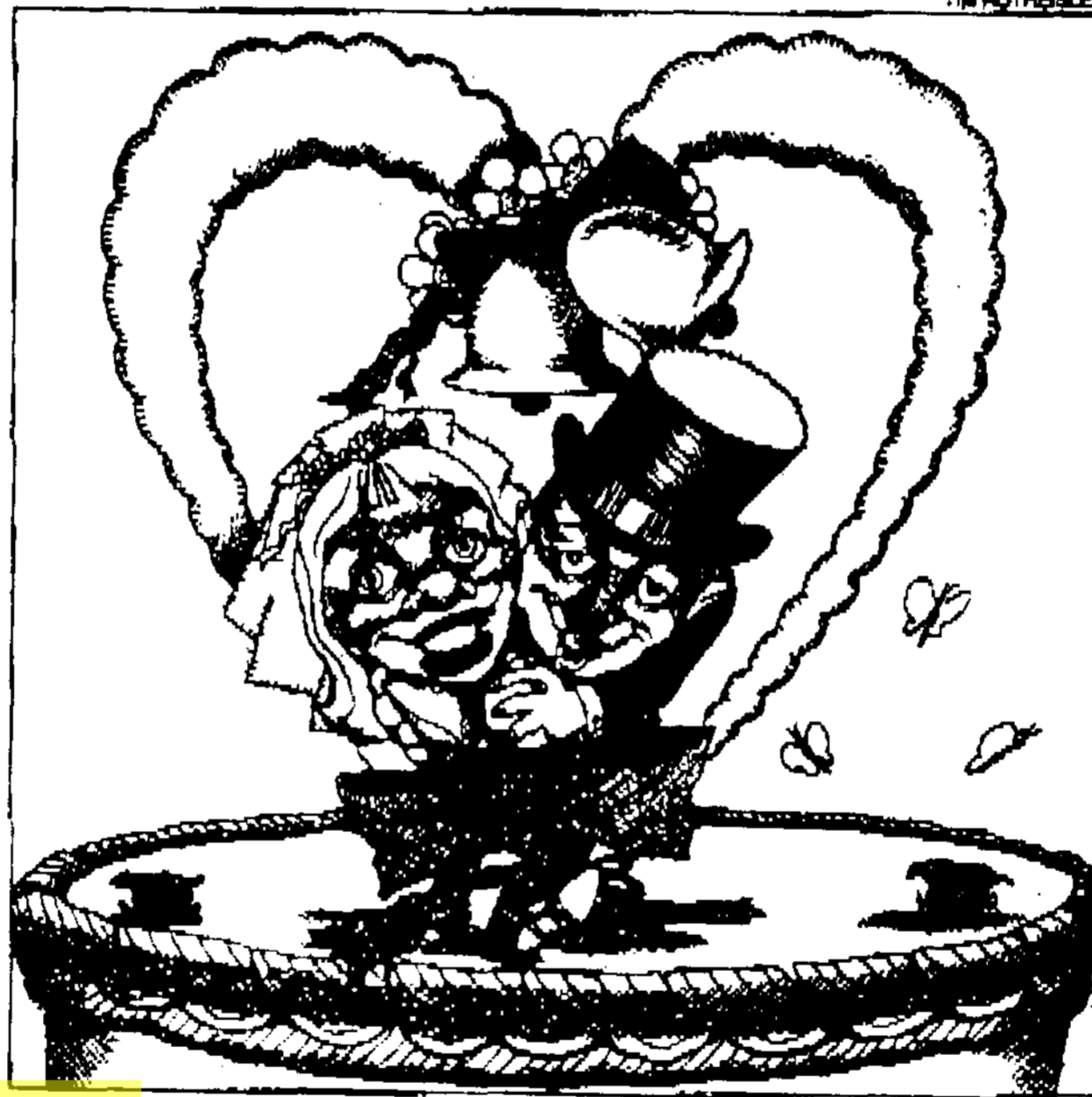
Psychologist Mark Genuis, president of the National Foundation for Family Research and Education, thinks such a law would be beneficial. "The bottom line is, kids do much, much better across the board when they have both parents," he says. "What's so wonderful about the [Louisiana] law, is that the state is acknowledging the central contribution of stable families to the whole of society."

REAL Women of Canada president Cecilia Forsyth of Saskatoon thinks the social benefits would be obvious. "Marriage isn't just a private commitment," she observes. "It's a public institution, the beginning of families and the foundation of society."

Port Moody-Coquitlam MP Sharon Hayes, chairman of the Reform Party's family caucus, says the Louisiana law accords with her party's principles. "I think there'd be quite a constituency for it," Mrs. Hayes says. At present, the Reform Party has been concerned simply with introducing mandatory mediation into the federal Divorce Act, but the possibility of a "covenant marriage" amendment will certainly be discussed, she promises.

Evangelical Fellowship of Canada president Gary Walsh refused to comment on the issue.

—Joe Woodard



knowingly entered into a covenant, a mother of young children abandons her family and refuses all reasonable efforts at reconciliation, she's at fault."

What is perhaps most surprising is the broad popular support for the measure. "The ACLU [the left-wing American Civil Liberties Union] was the only opposition," says Prof. Spaht. "The law passed the state assembly 98-0, and the senate 37-1." Both of the state's major dailies initially opposed it, but they were swamped by letters in support of it. "People increasingly want commitment," she explains. "This gives them the option. If one partner wants a covenant, and the other doesn't, that's the sort of thing they ought to find out before the wedding."

American writer Maggie Gallagher, author of *The Abolition of Marriage*, calls the