

BOOK REVIEW

Digest of Cases and Materials on the Divorce Act, 1968:

By Julien D. Payne. Edmonton, 1970 pp. 215.

When Parliament passed the Divorce Act 1968 providing for divorce in the Courts in all parts of Canada, enlarging the grounds for divorce, expanding jurisdiction and eliminating many problems as to domicile and, generally speaking, improved divorce law in Canada a new problem for lawyers was created. How would the busy practitioner keep abreast of the law. As was expected the number of divorces increased sharply. As there were additional grounds the variety also increased with an overall resulting complexity in divorce law in Canada.

Happily, one of the leading authorities in Canada on Family Law, including Divorce, came to the assistance of divorce practitioners. Professor Julien D. Payne quickly compiled his Digest and the first edition was published in March 1970. It was followed by Supplement I in October 1970. Early in 1971 a revised edition of the Digest was published and in September 1971 Supplement II was published. Although the Revised edition contains what is in the original plus material since the original publication it is worthwhile having the four volumes, i.e. the original Digest, Revised Edition and Supplement I and II. Both supplements have references to the Digest, e.g. "Digest, p. 28". Such references are to the original Digest, not the Revised Edition. This, however, does not mean that the reference cannot be easily found in the Revised Edition as the marginal headings are consistent in all volumes and extremely complete.

The Digest is just what it pretends to be — a digest. Anyone wishing a lengthy discourse on some aspect of divorce law will not find it. However, if one wants all or any case authority on any aspect of the Divorce Act, he will find it.

The Digest is not limited to Canadian authorities, nor to post-1968 authorities. Some of the grounds for divorce included in the 1968 Act had been subject to adjudication in England for many years. Professor Payne has collected all the leading pertinent English cases and pre-1968 Canadian cases as well as all reported (and some unreported) post-1968 Canadian cases. The Digest is painstakingly exhaustive.

A word about the form. All volumes have the same set-up. There is a truly excellent table of contents. It contains reference to every point in the Divorce Act. It is not alphabetical but follows the format of the Divorce Act itself. E.g. it begins with "Interpretation" followed by the various grounds for divorce, followed by jurisdiction etc. as is the form of the Act. Furthermore, each main topic is subdivided so that each separate point can be easily

referred to, e.g. "Cruelty" has 21 subdivisions such as definition, intention, provocation, etc. In short there is no aspect of the Divorce Act on which one might wish a reference that is not clearly listed in the contents. The page listed in the contents gives a short statement of the law together with all leading and recent case authorities.

The Digest is compiled in inexpensive form. It has a soft paper cover with plain black lettering. The spine is covered with plain black friction tape. The print is small but clear and the lines are well spaced. The margins are adequate for small notes. Its modest appearance gives no indication of the excellence of the contents. It is not a shelf show piece, it is a working tool for the desk.

Professor Payne's Digest is unquestionably the best reference to divorce law in Canada. Any solicitor with a divorce practice who does not have the Digest is severely handicapped compared with his colleague using the Digest. The Digest user saves time and clients' money. Any solicitor who is not particularly interested in divorce practice but wishes to keep himself generally informed and occasionally needs reference to some aspect of divorce law cannot do better than have the Digest in his Library.

The continuing proliferation of decisions on all aspects of divorce law in Canada is such that it is almost impossible for anyone, whether specializing in Family Law or not, to keep up to date without some handy digest. Professor Payne has fulfilled that need to the present. It can only be hoped that he or someone else will continue to publish either revised editions of the Digest or Supplements to it.

Daniel M. Hurley
Professor of Law
U.N.B. Fredericton