

IN THIS ISSUE

1

The *Law* Project

1

Stellar Guest List Lights up the Night

2

Message from the Chair

3

Legal Review

3

In Memoriam

4-5

LEAF across the Land

6

In Conversation with Volunteer Betty Hopkins

6

Spotlight on Supporter Audrey Pickard

7-8-9

A Special Thanks to Donors

10

LEAF Receives Vote of Confidence

The *Law* Project

BY KATE STEPHENSON

In 1999, the Supreme Court of Canada decided the case of *Nancy Law v. Canada*. The case involved a widow's claim that her equality rights were violated when she was denied a Canada Pension Plan survivor's benefit because she was under age 35. The Supreme Court used the case as an opportunity to synthesize and consolidate its *Charter* section 15 equality analysis set out in previous cases, and laid down a new set of "guidelines" to be followed in subsequent cases.

These "guidelines" have become a test by which all equality cases are analysed, by parties and judges alike. The results for women's equality claims under this test have been disappointing. LEAF's National Legal Committee (NLC) has therefore embarked on a project aimed at getting section 15

jurisprudence back on track and refocusing the courts' attention on substantive equality. We are starting by identifying and understanding the flaws inherent in the *Law* test.

The project involves NLC monthly study groups and two community-based meetings to be carried out over the next year. The first community meeting will focus on analysing and critiquing questions of legal principle and legal theory that underlie the problems with the *Law* test, as well as developing feminist legal theory to work our way through these problems. The meeting will involve a group of practitioners and academics. The second meeting will focus on how to take a new or substantially revised approach forward in the courts in

continued on page 9

Stellar Guest List Lights up the Night for Equality and LEAF

On a balmy, April 15th evening, on the 40th floor of the Royal Bank South Tower in Toronto, sixty LEAFriends assembled for the third annual RBC Equality Day Celebration, hosted by Charlie Coffey, Executive Vice President, RBC Financial Group.

Over cocktails, the guests were welcomed by Irene Bailey, and watched as two dedicated LEAF supporters, Joan Westcott and Connie Deckert of Waterloo, presented a cheque for \$2,650 from their Persons Day Breakfast to Fundraising Committee Chair Joanne McLean.

As dinner was served, Charlie called upon several of the guests to say a few impromptu words about the importance of

LEAF and equality. Jan Roos, the Founder of See You in Athens, spoke of the need for support for women in sport; Marilou McPhedran, newly returned from a meeting



Penny Collette

with women in the Bahamas, spoke of sharing our Canadian experience in the struggle for constitutional equality; Carolyn Horkins told us about forming a women's initiative support group for lawyers; Ruth Berger,

continued on page 9



Recognizing the collective goodwill that inspires our work!



Colleen Cattell, LEAF National Board Chair

Message from the Chair



This past 2002-03 year has been a challenging one for LEAF, with many high points. In the first days of our new 2003-04 fiscal year, we devoted positive energy to preparing LEAF's internal strategy and structure to meet future needs. LEAF leaders gathered on April 4, 5 and 6 in strategic sessions to rethink our

role in the feminist community and resolve persistent organizational issues so that we continue to carry on LEAF's work in a thriving and productive way.

Part of this strategic process was a review of our achievements, of which there are many. A legal review of two of LEAF's current cases is outlined in this issue and despite our many successes overall, there is still much to be done. We must be vigilant to protect the gains we have made. We need to continue reminding the courts to engage in an equality analysis, and the courts are still very capable of getting that analysis wrong.

In LEAF's role internationally, we were pleased to host a delegation of equality seeking women from Malaysia for a week in September. During their visit, they were able to truly see LEAF in action when they attended the *Miller* case hearing. Marilou McPhedran, LEAF's former Chair, attended a session of the United Nations in January, along with other Canadian women's NGO's, to present Canada's progress on equality issues. International law will likely play an increasingly important role in the equality rights arguments put forward in this country.

SPECIAL THANKS TO ALL OUR SUPPORTERS

With the generous support of Status of Women Canada (SWC), we launched our new and much improved Web site in September 2002. SWC funding also enabled us to continue developing our *No Means No* education program, now being delivered in several Toronto area schools. Both the Ottawa Branch that launched its program in November and West Coast LEAF are actively expanding their programs in the schools. West Coast LEAF has also launched a series of community workshops based on the guidebook developed from their 1999 conference, *Transforming*

Women's Future, Equality Rights in the New Millennium. Congratulations to all those LEAF Branches who hosted successful Persons Day and Equality Breakfasts across the country, several of which sold out! And thank you to our donors who continue to believe in our cause.

At the core of our success are the countless hours devoted by our volunteers — legal, education, and fundraising — at the national level, in our Branches, and within the LEAF Foundation. Here's a heartfelt thanks to all of our dedicated volunteers and to our committed staff: Legal Assistant



Delegates interested in developing a court challenges program in Malaysia visit with LEAF members and staff. (back row, l to r:) LEAF founding member Beth Symes and Women's Crisis Centre (WCC) president Zarizana Abdul Aziz of Penang, Malaysia. (front row, l to r:) LEAF staff lawyer Marina Browning, lawyer and human rights activist Salbiah Ahmad of Penang, lawyer and WCC associate Honey Tan of Penang, LEAF founding members Mary Eberts and Nancy Ruth.

Marian Ali (who has been with us for eight years), hard working staff lawyer Marina Browning, and Renata Hervey, who we were delighted to bring on board in the fall as Director of Fundraising. Together, our volunteers and supporters are the engine of LEAF and a source of its continued inspiration.

Colleen Cattell
LEAF National Board Chair

LEAF SWEEPS WINNER!

Rose Rose was the lucky recipient of this year's sweepstakes draw on November 28, 2002. Rose and her family or friends will enjoy a week-long stay in a Spanish villa in historic San Miguel de Allende, in Mexico's charming colonial heartland. Congratulations Rose! We look forward to hearing all about your trip!

LEAF thanks Joan Zarry for the use of her private villa.

LEGAL REVIEW

Social and Economic Rights: The Struggle for Substantive Equality Continues

LEAF focused on several cases this past year that examined the gender-specific effects of legislative regimes that have a differential and discriminatory impact on the social and economic circumstances of women across Canada. Here is a summary of two of these cases.

In *The Attorney General of Canada v. Lesiuk*, the Federal Court of Appeal considered whether certain provisions of the *Employment Insurance Act*, which deny benefits to persons who do not meet the Act's minimum hour requirements, violate section 15 of the *Charter*. These provisions effectively eliminated benefits for part-time, primarily female workers, often mothers with competing child care responsibilities.

LEAF argued that the eligibility criteria were formulated and applied without regard to women's needs and circumstances, and were based upon male characteristics of employment. The Court rejected LEAF's argument that the eligibility criteria were inherently gendered and, thus, fundamentally flawed. In doing so, the Court made the requirements of proving adverse-effects discrimination so exacting that LEAF believes it will be virtually impossible for future claimants to meet them.

Ms. Lesiuk has applied for leave to appeal this decision to the Supreme Court of Canada. If the application is granted, LEAF intends to seek leave to intervene and to argue, among other things, that the Court disregarded ample contextual evidence of the historic, discriminatory treatment of women within the employment insurance regime. In addition, LEAF will argue that the Court erred by interpreting too narrowly the test for discrimination set out in the *Law* case.

LEAF believes that just because all women are not adversely affected by a legislative regime does not mean a claim of discrimination is invalid. Discrimination against some women is still discrimination against women.

In *Falkiner v. Ontario*, LEAF sought to challenge the definition of "spouse" under social assistance regulations. To determine eligibility for benefits, the "spouse in the house rule" deemed that a person who cohabits with someone of the opposite sex is that person's spouse and is presumed to have access to their income.

Following a 1986 LEAF challenge, the definition of spouse was amended to comply with the *Charter*, but in 1995, a new government reintroduced the "spouse in the house rule". As a direct result, 10,000 people were cut off assistance: 90% were women; 76% were single mothers.

LEAF argued that the rule discriminated against

women and single mothers by linking their eligibility for benefits to their relationships with men.

The Ontario Court of Appeal agreed with LEAF and found that the "spouse in the house rule" discriminated on the basis of sex and marital status because it overwhelmingly affected women and because it reinforced the stereotype that women's intimate relationships have an economic subtext and that women must be financially dependent on men with whom they live.



Panel at Civil Legal Aid Conference including LEAF Director of Litigation Sondra Gibbons (centre).

The Court also made the novel ruling that "receipt of social assistance" is an analogous ground under section 15 of the *Charter* and that the definition also discriminated on this basis.

The government sought leave to appeal the case to the Supreme Court of Canada and leave was granted on March 20, 2003.

LEAF hopes to be able to intervene in the final hearing of this important case.

In Memoriam

Starr Solomon, esteemed journalist and public-relations guru died in Toronto, January 3, 2003. Starr was a founding member of LEAF Ottawa and she gave generously of her knowledge and know-how throughout the years.

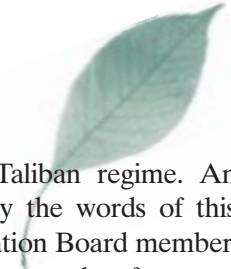
Bonnie Theemes died March 12, 2003 of liver cancer. Bonnie was an enthusiastic supporter of LEAF, joining as a fundraising volunteer for the Roadshow at the Orpheum with Gloria Steinem in 1989, later becoming Executive Director of West Coast LEAF from the early 1990's through 1999.

On April 26, 2003, Canada lost a tireless champion of justice in **Rosemary Brown**. Rosemary was a humanitarian with wit who pushed boundaries, challenged the status quo, and desired to make equality a reality for every human being. She said, "We must open doors and we must see to it they remain open, so that others can pass through." "Unless all of us are free, none of us will be free."

We miss you all.



LEAF Across the Land



This past year, LEAF Branches grew their influence by increasing overall attendance at *Persons Day* and *Equality Day* celebrations, educating more youth about human rights, and fundraising in creative new ways — all to support LEAF's important legal work and law reform protecting equality for women and girls.

West Coast LEAF Education: Organizers of **No Means No** saw increased demand for the **education program** from schools across the province. Senior student facilitators **delivered 102 workshop hours to 480 students** at seven middle schools. Since implementing the program in November 2001, over 100 peer facilitators have been trained and 1,230 students have participated in workshops with an anti-violence and equality rights message. The Branch also piloted **a unique and popular workshop series and mini course** for individuals and community organizations in which participants learn about the Canadian *Charter of Rights and Freedoms*, how it affects their lives and how to use the legal systems and tools. To date, about 50 community groups have participated. **Law Reform:** Most notably, the regional office legal team has been active on issues concerning changes to the **B.C. Human Rights Code, cuts to legal aid, and new restrictions to welfare and the implications of all these issues for women.**

Equality Breakfasts: Volunteer committees organized successful **Equality Breakfasts** in **Vancouver, Victoria** and **Nanaimo**, with attendance of 550, 150 and 120 people respectively. A smaller luncheon event was also held in **Chilliwack** in celebration of *Persons Day*.



Persons Day Breakfast in Winnipeg, November 2002.

LEAF Edmonton's Persons Day Breakfast was even more successful than last year's with an audience of 297 gathering to hear reporter, writer and documentary filmmaker Sally Armstrong. Sally offered a unique view from the inside, as she related her experiences visiting with the women of

Afghanistan during and after the Taliban regime. An appreciative audience was riveted by the words of this social activist and past LEAF Foundation Board member. Ritu Khullar also presented an important update for attendees on recent LEAF court cases.



(l to r:) Director of Fundraising Renata Hervey, Fundraising Committee Chair Joanne McLean, and Event Chair Irene Bailey at the RBC Equality Day Celebration held in Toronto, April 15, 2003.

LEAF Regina has been working with the Saskatchewan Action Committee (SAC) on its **Access to Justice for Women** project. SAC is exploring the possibility of women's legal clinics in the province. LEAF Regina has tried to build a working relationship with SAC and this project provides an opportunity for the Branch to add its momentum as SAC lobbies the provincial government. LEAF Regina is planning a **Persons Day Breakfast** for October 17, 2003. The guest speaker will be Dr. Elizabeth Abbott, Dean of Women at Trinity College, University of Toronto.

LEAF Saskatoon's well-attended **Persons Day Breakfast** featured a presentation by Yvonne Peters, who was fresh from receiving the 2002 Bertha Wilson Touchstone Award from the Canadian Bar Association. Yvonne's talk, "Equality in Canada: Is it Working?" described several of the achievements by LEAF in equality jurisprudence while also identifying the challenges for the future. Yvonne received a standing ovation from an approving audience.

LEAF Manitoba – Guest speaker Kim Pate, Executive Director of the Canadian Association of Elizabeth Fry Societies inspired and challenged **Winnipeg's** 800 attendees at this year's **Persons Day Breakfast** with her focus on "criminalized" women and girls, their need for fairness and justice, and for an opportunity to be contributing members of communities. Kim's knowledge and passion for equality

and justice left a lasting impression on all who came out to support equality and LEAF.

Education: “Equality and the Freedom to Be Yourself” was the theme for the daylong **Youth Forum** of workshops attended by students from 17 schools. Their comments best summarize the event: “*I really enjoyed hearing from other teenagers about their struggles and how they overcame them.*” “*I’ve never been to anything like this before, and I would really like to attend one again.*” “*Thanks to the women who made me a person and a woman with rights.*”

LEAF Kitchener-Waterloo – LEAF organizers managed an even more successful **Persons Day Breakfast** this year with 230 people attending the event including federal, provincial and municipal politicians. The Breakfast was hosted by the Zonta Club of Kitchener-Waterloo. The event received extensive media coverage including a radio interview prior to the date, three aired TV broadcasts on the day of the event, and print articles with photos in the local newspaper before and after the event. LEAF founding member Nancy Ruth provided the passion with her keynote speech.

LEAF Sudbury – Each April, for the past two years, **Celebrate Women** has been a unique Sudbury networking event in which LEAF Sudbury members have collaborated with Sudbury YWCA and the Sudbury chapter of the Canadian Federation of University Women to feature a female author discussing her experiences. This year, author Laura Robinson spoke about her experiences as a national level athlete.

LEAF Sudbury’s **13th Annual Persons Day Breakfast** this year was addressed by Ann Dowsett Johnston of *MacLean’s* magazine, who spoke to 400 event participants. Joining her on the podium was founding LEAF member, Nancy Ruth who reminded rapt audience members of the importance of the Canadian *Charter of Rights and Freedoms* for all Canadians. Later, Ann met with the three female presidents of Sudbury’s three post-secondary educational institutions and in doing so, raised a further donation for LEAF.

LEAF Owen Sound – “**Persons Day** in Owen Sound was memorable,” said Nancy Ruth. “Seeing women and men committed to equality, committed to learning results of cases, committed to being part of our national organization — what a joy!” Among the guests attracted to the event was a former member of LEAF’s Legal Committee, teachers, and a past president of the Federation of Women Teachers Associations of Ontario which gave LEAF it’s start.

LEAF Kingston – A successful **Equality Day Breakfast** was held at Queen’s University in celebration of International Women’s Day and LEAF’s Director of Litigation Sondra Gibbons presented the keynote speech, updating the stu-

dent audience about LEAF’s recent legal cases and achievements and discussing the challenges for the future.

LEAF Toronto – At a well-attended **Persons Day Breakfast** of 1,000 participants, Torontonians were treated to a keynote speech about women in a changing world by esteemed scholar, business director and author Jill Ker Conway. Singer Mary Lou Fallis also entertained an attentive audience and founding LEAF member Beth Symes spoke eloquently of the connection between LEAF and the Canadian *Charter of Rights and Freedoms*. This year’s Persons Day Breakfast will be held October 17 and will feature author, professor and lawyer Patricia Monture-Angus.

LEAF Ottawa – Congratulations Ottawa, on your growth from five to 100 members in just over one year! *Education:* Thirty trained volunteers delivered 33 **No Means No** sessions in four area schools to 1,000 energetic and involved grade 7 and 8 students. Each participant received a copy of the *Charter* and sported a LEAF tattoo. Volunteers were identifiable in their LEAF t-shirts. A winning t-shirt design will be featured on next year’s shirt, to be sold as part of a community fundraising campaign. Plans are afoot for an **Equality Day Celebration** in March 2004.



(l to r:) LEAF Sudbury Past Chair Lucie Cousineau, LEAF founding member Nancy Ruth, Irene Blais, and keynote speaker Ann Dowsett Johnston.

LEAF New Brunswick – Hosted by the Canadian Federation of University Women/Kent, this year’s successful **Persons Day Breakfast** was supported by participants from Bouctouche, Rexton, Richibucto and St. Louis de Kent as well as Bonar Law Memorial School students. Guest speaker Kathy Champoux spoke of her career in the RCMP, much to the delight of the university and invited high school students in attendance. An informative and interesting discussion period followed and audience members were visibly appreciative.

Thanks to all of our volunteers — lawyers and legal teams, directors, event organizers and speakers, workshop facilitators, trainers, and office staff for making this year a huge success!

In Conversation with Volunteer Betty Hopkins

A volunteer most of her life, Betty has worked with men, women and children and her considerable contributions have touched every level of society — from the most powerful to our most vulnerable. Betty's history of volunteerism gives her an extraordinary perspective on a broad spectrum of issues.

Q LEAF: Betty, your exposure as a career volunteer to such a wide cross-section of our society gives you an exceptional vantage point. The valuable knowledge you bring to LEAF is nothing short of astounding. In your work with women for instance, you have held roles that related to women and prison, women and prostitution, women and social assistance, women and tenants' rights, women and childcare, and women and justice. If you could send just one message to our politicians today about women, what would it be?

A BH: "I would emphasize the strength, unique experiences, and wisdom women can bring to important issues facing all of us today — issues of peace, justice and equality in Canada and around the world. When I was



employed in social work, I met women in extreme positions of vulnerability who overcame tremendous odds. I learned how systems could fail people. That's why I made the choice to leave paid employment to work full time on a volunteer basis in the areas of policy and social change."

Betty's fine-tuned mind and long-standing commitment to people and social issues make her an invaluable team member at LEAF. Betty first participated in the Winnipeg "Branching Out" campaign — a fundraising group that mounted the first

Persons Day Breakfast in the city in 1991, attracting 270 people. As Chair of the Board for LEAF's Manitoba Branch, Betty has been actively involved in the success of the Winnipeg Persons Day Breakfasts ever since, with the most recent event in October 2002 attracting 800 LEAF supporters. Betty's positive impact has been felt in many parts of LEAF and in past she has been a member of both the LEAF Manitoba Board and the LEAF National Board.

Thank you, Betty, for all that you do!

Spotlight on Supporter Audrey Pickard

Audrey Pickard has a philosophy about life: "If you educate and help a woman, you educate and help a community." Audrey brought early conviction to her belief when she put herself through university and obtained her Bachelor of Science degree in Nursing. During her career, Audrey taught Nursing in British Columbia, Alberta, and Ontario. The retired superwoman has also raised two daughters. Barbara is a teacher like her mother and Beverly enjoys a career in the mining industry in environment/occupational health. A long-time supporter of LEAF, Audrey has introduced both younger and mature women to our organization by inviting them to attend the RBC Equality Day Celebration in Toronto and var-



ious Persons Day Breakfasts. Audrey believes that LEAF has been academically sound in its pursuit, preparation and defense of women's rights and that the organization has been very good at arousing interest among women with a view to helping other women. When asked about the challenges ahead for LEAF, Audrey replied, "We need to be on guard to protect the rights of women and continue to be diligent in our search for knowledge and truth."

Thank you, Audrey, for your past and continued support of LEAF!

A Special Thanks to our Donors

LEAF wishes to acknowledge the many donors who gave generously in 2002. Because of you, LEAF has been actively working to advance the equality of women and girls in Canada through litigation, law reform and public education. Your continued support has allowed LEAF to intervene in precedent-setting cases for the benefit of all Canadian society. We offer you our special thanks.

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Law Project continued from page 1
 future litigation. This meeting will involve a broad range of equality seeking groups.

To date, the monthly study groups have discussed several problems with the *Law* test:

- the concept of “human dignity” which is at the heart of the test is too individualistic, too vague and too subjective to provide a touchstone for the achievement of substantive equality;
- the dignity concept allows the court to focus on the “choice” of the equality claimant without recognizing the real life circumstances which make “choice” illusory for many women;
- the focus on “personal characteristics” as “grounds of discrimination” obscures women’s reality and hides the complexity of the intersecting oppressions that most women face;
- the contextual factors identified by the court permit the consideration of “relevance” and government objectives under the equality analysis, rather than leaving them to section 1 where they properly belong;
- consideration of the “ameliorative purposes” of an impugned law creates an inappropriate hierarchy of oppressions;
- the requirement to make direct comparisons means that only formal equality claims and not those that focus on substantive equality issues have a chance of success.

The study groups have also begun to look at ideas that may assist in redirecting the court toward a substantive equality approach — one that recognizes that achieving equality requires the government to take positive steps toward changing social conditions that stand in the way of meaningful social participation. The NLC has looked to

philosophers and policymakers who define inequality as social exclusion and an absence of the capacity to realize full human potential. These ideas and others may be infused into equality jurisprudence, through the participation of organizations such as LEAF. Such an infusion of ideals is the historical strength of LEAF. The Law project takes this strength into the future. LEAF hopes that this study will inform not only its own litigation in support of women’s equality, but the work of other equality seeking groups as well, so that all women may be better able to realize the full promise of the section 15 equality guarantee.

We would like to express our special thanks to the LEAF Foundation for funding this groundbreaking project.

Stellar Guest continued from page 1
 from Ottawa, spoke of the importance of respectful treatment of immigrants, and Heather MacTaggart, who works in an organization called Classroom Connections, underscored the connection between equality, education and peace—a very timely message.

As we made our way through the Chilean sea bass to the orange/apple tart, three Toronto mayoralty candidates, Barbara Hall, David Miller and John Tory, added their equality stories to Charlie’s collection.

The pièce de résistance was our guest speaker of the evening, Penny Collette, who was introduced by Patrick Gossage and Irene Bailey. Penny, an organizer of LEAF Ottawa and a former member of the LEAF Foundation Board, is a senior fellow at the Center for Business and Government at Harvard University, and has been recognized by *Maclean’s* and *Chatelaine* magazines as one of Canada’s 50 most influential people. She decried the lack of female representatives in Canadian legislatures and the fact that there are no female premiers, and suggested that the



Chief Communications Officer Ida Teoli of Bell Canada (3rd from left) attends the RBC Equality Day Celebration in support of LEAF.

status quo is not good enough. The world needs creative thinking and transparent, cross-cultural, global governance. She urged women to unite worldwide, and firmly believes that, as Canadians, we can be leaders in participatory democracy and ethics in government. It was a challenging, straight-from-the-heart speech.

The evening came to a close with the ice wine and an auction served up by the incomparable Don Stewart of Appleby College. With the purchases of “Leila, barque en dérive”, a computer print on canvas, donated by Danielle Richard from Sillery, Québec, an original quilted Famous Five wall hanging, made especially for this auction by June Sparling of Owen Sound, and a stunning floral oil painting by Helen Lucas, an additional \$7,000 was raised for LEAF.

Groups of energized LEAFriends reluctantly said au revoir and merci to the Royal Bank for its continued commitment to equality and to LEAF, and made their way back into the balmy April night.

LEAF gratefully acknowledges all of the speakers and organizers, artistic auction donors and attendees who came out to support equality in Canada through this special RBC Equality Day Celebration. A special word of thanks goes to guest speaker Penny Collenette, to our hosts Charlie Coffey and RBC Financial Group, to Irene Bailey for organizing the event, to Joanne McLean for sourcing auction donations, and to LEAF staff members Marian Ali and Renata Hervey, who provided coordination and publicity.

LEAF Receives Vote of Confidence from Patrons Aliant and Bell Canada



Last year, **Aliant**, a leading Canadian telecommunications supplier in Eastern Canada threw its support behind LEAF by providing in-kind services to LEAF for its significant annual telecommunications. This year, **Bell Canada** made a generous donation of \$20,000 towards LEAF’s teleconferencing services for the 2003-2004 year.

Both of these Canadian corporations have been terrific in recognizing that telecommunications services represent a key instrument of growth for LEAF, allowing us to bring about real change in the lives of women and girls in Canada. And for this, we are truly grateful. These donations represent one of the most significant costs in our annual budget.

Thank you, Aliant and Bell Canada, for your continued leadership in support of LEAF.

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