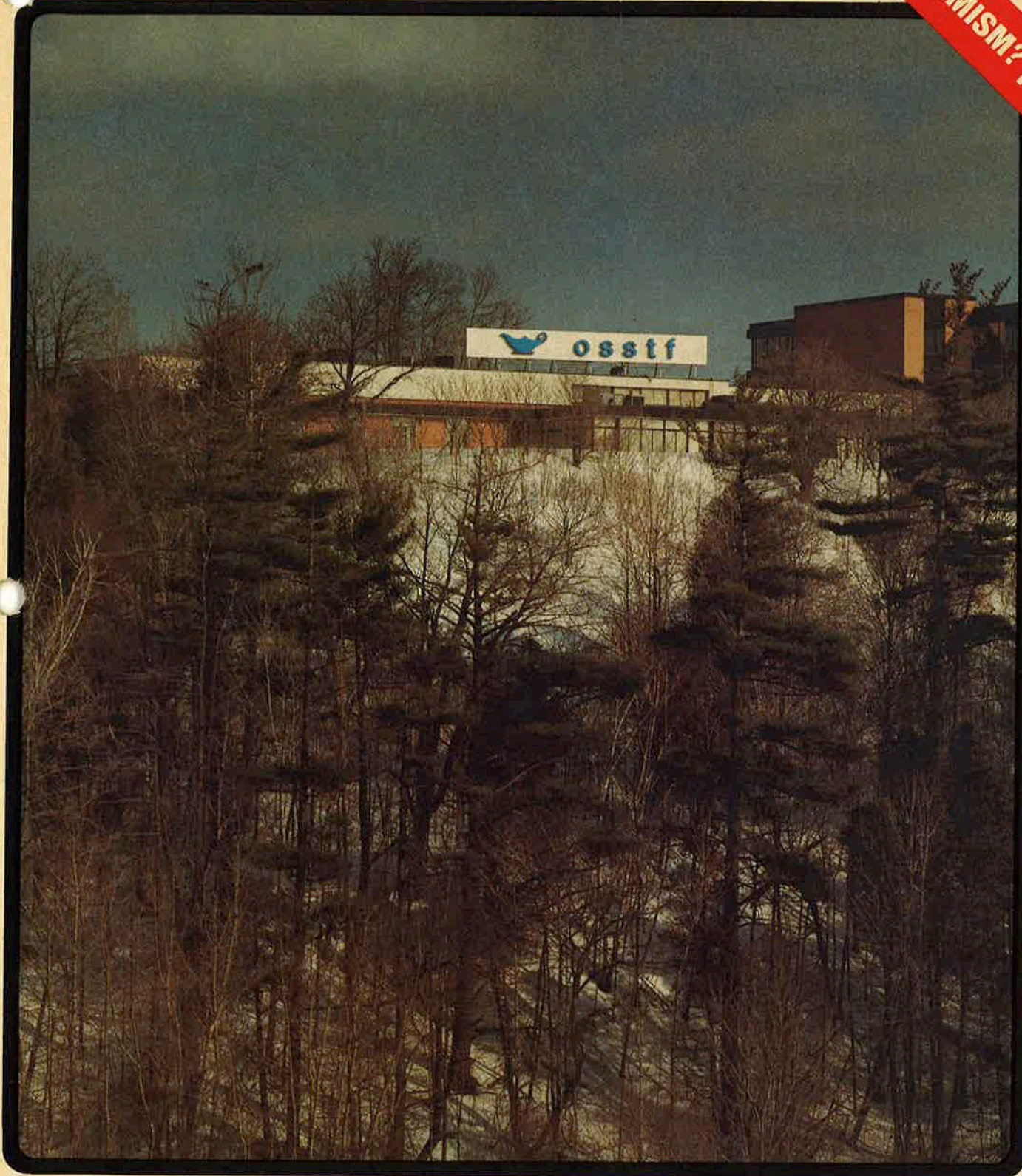


# FORUM

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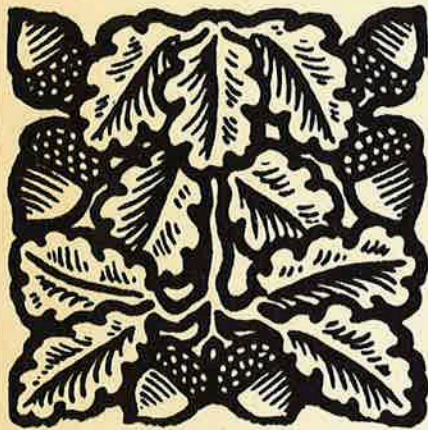
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# A LONG WAY YET TO GO

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# THE WAY IT IS

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**By Shelagh Luka**

Recent legal decisions have once again called our attention to the precarious nature of the rights of women under the law. The battle for legal equality for women must be fought issue by issue; equality, it seems, comes piecemeal to women in Canada.

Acquiring the vote took years of organized activity by women. Many believed that this right, achieved federally in 1918, would automatically lead to full equality. This was not so. The next major battle—strange indeed in the telling—was to achieve status as persons under a law which declared that only persons could hold office in the Canadian Senate. Persons, according to the Supreme Court of Canada, were all male. As a result of a petition submitted to the Privy Council of England, women were finally declared to be persons in October 1929. Deliberate, conscious use of the word “person” today by individuals committed to equality for women harks back to that momentous decision.

Many years later, in 1981, Canadian women needed to mobilize yet again. This time, the fight was to retain Clause 28, guaranteeing “rights and freedoms . . . equally to male and female persons”, after a shockingly cynical political attempt to remove this Clause from the Charter of Rights and Freedoms. Although a successful national lobby resolved this issue, the infamous “override” Clause permitting legislation to “operate notwithstanding . . .” the democratic, legal, and equality rights in other sections of the Charter remains in the Constitution.

It has taken many years for equalizing changes to appear in Family Law. The Murdoch case, in 1973, made clear the urgent need for reform. The Supreme Court of Canada decided that Irene Murdoch, after 25 years running a farm and raising a family while her husband held another job, was not entitled to any share of the property when they divorced. Major changes in provincial and federal laws over the next decade made significant improvements for women. Yet in December 1982, the Supreme Court ruled that Barbara Leatherdale, after 19 years of marriage, was entitled to only one-quarter of the family savings, since she had worked outside the home for only 9 of those years. Ontario laws place no value on unpaid work in the home.

In the same month, Ontario's Supreme Court ruled that Cynthia Collard must give her son the surname of her estranged husband, or that of the

child's natural father, or a hyphenated name combining Collard with the name of one of the men. The Vital Statistics Act prohibits a woman from giving only her own surname to her child.

With painful slowness, the law has recognized some needs of women in the work-force. In Ontario, pregnancy leave legislation was enacted in 1970. In 1974, women in Ontario won the right to equal pay for equal work—i.e., women and men performing the same job for the same employer must receive the same pay. Still to be achieved is legislation, now in place in Quebec and federally, which requires equal pay for work of equal value. Such legislation makes it possible to compare and put a dollar value on jobs which, while substantially different, involve similar levels of skill, effort, and responsibility.

With the recent passage of Bill 179, and similar restraint laws elsewhere, new barriers to progress have appeared on the legislative landscape. Wage controls reinforce existing inequities, and actually increase the gap, between average male and female incomes. Since the cost of any improvement in working conditions, for example paid maternity leave, must be included in any total increase, such gains become highly unlikely during controls. Most ominous is the virtual suspension of free collective bargaining in the public sector. Almost all improvements in the working conditions of women have been achieved through collective bargaining.

Women in Canada, whether they work as teachers or in other fields, can anticipate a bleak period ahead. At best, progress towards equality will temporarily be halted; without constant vigilance, gains already achieved risk being lost. As teachers, as parents, and as citizens, we all stand to lose. ●

