WILL YOU STILL NEED ME, WILL YOU STILL FEED ME, WHEN I'M 94? THE SCARY DEMOGRAPHIC REALITY OF AGING BABY BOOMERS AND THEIR CHILDREN'S LIABILITY UNDER CRIMINAL AND FAMILY LAW*

By the Honourable Madam Justice Marion Allan

Canada's population is aging dramatically, raising the question: What duties can and should the state impose upon children with respect to their elderly parents who are unable to support themselves? This article focuses on Canada's changing demographics and on two existing statutory provisions that bear upon that question: s. 215(1)(c) of the ***Criminal Code***, which requires an adult child to supply a dependent parent with the necessaries of life in certain circumstances; and s. 90 of British Columbia's ***Family Relations Act*** which, in addition to providing for child and spousal support, also provides for parental support.

DEMOGRAPHICS

The increase of older persons as a percentage of the total population in Canada is dramatic:

- In the 1920s and 1930s, persons aged 65 and over ("seniors") comprised about 5 per cent of the population.
- By 2006, that percentage had climbed to 13.7 per cent.
- By 2036, that percentage is expected to almost double, increasing to 24.5 per cent.

In July 2007, Statistics Canada released a portrait of the Canadian population drawn from the 2006 Census data:

- Seniors totalled 4.3 million, or one in seven, Canadians.
- More than 1.2 million of those Canadians were 80 years of age or older.[1]

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A recent study of population projections by Statistics Canada used the population estimates as of July 1, 2005, and applied emerging trends in the components of population growth to project the population in each province and territory up to 2031 and in Canada up to 2056.[2] Its medium-growth scenario assumed a continuation of the most recent trends in fertility, mortality and immigration. The study projects that:

- as early as 2015, seniors aged 65 and over will outnumber children under the age of 15;
- by 2031, between 8.9 and 9.4 million people will be aged 65 and over, and children under age 15 will constitute between 4.8 and 6.6 million people; and
- the median age, which divides Canada's population into two groups of equal size, will climb from 39.5 years in 2006 to 43–46 years in 2031 and 45–50 years in 2056.

Obviously the seniors cohort is the most rapidly growing age group in our country—a veritable tsunami of baby boomers. Nearly one in three Canadians was a baby boomer in 2006. The projections show that population aging, which has already begun, will accelerate in 2011 when the first baby boomers (born in 1946) reach the age of 65.

Throughout the industrialized world, a declining birth rate and increasing life expectancy, together with the aging of baby boomers, have created this rapid acceleration of the elder population as a proportion of the total population. In Canada, life expectancy is on the increase:

- for women, from 82.5 years in 2004 to 86 years in 2041; and
- for men, from 77.7 years in 2004 to 81 years in 2041.

As well, the number of "older olds"—seniors aged 85 or older—has grown rapidly in the past two decades. Between 1981 and 2005, their share of the total population jumped from 0.8 per cent to 1.5 per cent. It is not expected to exceed 2 per cent before 2021. However, between 2021 and 2056, as the baby boomers enter this cohort, their share will almost triple to 5.8 per cent. According to the latest population projections, the number of centenarians could triple from 4,635 in 2006 to more than 14,000 by 2031.

At the same time, fertility rates have dropped:

- from three or more children per woman from the mid-1940s through the mid-1960s, to
- 1.5 children per woman since that time.

THE CONSEQUENCES OF THE SCARY DEMOGRAPHIC REALITY OF THE AGING POPULATION

This increase in the elder population will profoundly affect all our systems, including health and home care, housing, pensions, labour markets and public financing. Both the problems and the solutions vary, according to seniors' gender,[3] physical and mental health,[4] income levels, race, culture, and whether they are urban, rural or northern.

As the aging cohort increases, fewer younger people will be in the work force to create the wealth necessary to support its needs. Governments have begun to recognize this reality and to consider the need to develop strategies for dealing with the problems inherent in a dramatically greying population.

The emerging field of "elder law" encompasses all areas of the law, including criminal law, family law, succession law and property law. Concepts from criminal and family law are discussed below.

CRIMINAL LIABILITY

Section 215(1) of the ***Criminal Code*** imposes a legal duty on persons to provide the necessaries of life to certain classes of individuals. Subsections (a) and (b) deal with children under the age of 16 and spouses. Section 215 provides:

> (1) Every one is under a legal duty: …
>
> (c) to provide necessaries of life to a person under his charge if that person
>
> (i) is unable, by reason of detention, age, illness, mental disorder or other cause, to withdraw himself from that charge, and
>
> (ii) is unable to provide himself with necessaries of life.
>
> (2) Every one commits an offence who, being under a legal duty within the meaning of subsection (1), fails without lawful excuse, the proof of which lies upon him,[5] to perform that duty, if …

> (b) with respect to a duty imposed by paragraph (1)(c), the failure to perform the duty endangers the life of the person to whom the duty is owed or causes or is likely to cause the health of that person to be injured permanently.

In ***R. v. Peterson***,[6] the Ontario Court of Appeal upheld an adult son's conviction for failing to provide the necessaries of life to his 84-year-old father, describing the case as one of first instance. The son lived in the upper portion of the family home, and his father lived in the lower portion. The son kept his doors locked. The father's living area was filthy and in serious disrepair, with dead cockroaches and dog feces on the dirt floor of the basement. It lacked a functioning bathroom or kitchen. The father was often disoriented and dressed inappropriately for the weather. He sometimes locked himself out of the home. However, his daughter testified that he was fiercely independent, would not listen to anyone and adamantly refused to be placed in a nursing home.

The central issue in the case was whether the father was "under the charge" of the accused within the meaning of s. 215(1)(c). Madam Justice Weiler, for the majority, held that the word "charge" connotes the duty or responsibility of taking care of another person. The words "without lawful excuse" in s. 215(2) provide a defence and "serve to prevent the punishment of the morally innocent".[7] The obligation to provide necessaries is not absolute and may be excused where, for example, the child is financially unable to provide them. Mr. Justice Borins, dissenting on sentence, emphasized the distinction between subss. 215(1)(a) and (b), which create absolute legal duties on parents of children under 16 and spouses to provide the necessaries of life, and subs. (c) which only creates such a legal duty on a child to his or her parent if that parent is "under the charge" of the child.

In this case, the father was dependent and unable to provide himself with the necessaries of life. The accused was aware of that dependency and had control over his father's personal care and living conditions. He had kept his father in an unsafe environment and had failed to seek community services that would have been available to assist his father. The father was too old, feeble and senile to withdraw himself from his son's care. As a result, the accused was held to have failed in his duty to provide his father with the necessaries of life.

The majority of the Court of Appeal also upheld the sentence of six months' imprisonment, two years' probation and 100 hours of community service. The offence is a hybrid offence, which at the time was punishable by a maximum penalty of imprisonment for two years when the Crown proceeded by way of indictment.[8] Borins J.A. considered the sentence imposed upon the accused to be "manifestly unfit" and would have substituted a conditional sentence of six months. He emphasized the mitigating factors: the father was fiercely independent, contrary and stubborn; he was vehemently opposed to entering a nursing home; and he had, on previous occasions, rejected his son's assistance. Although Weiler J.A. dealt very briefly with those factors, including the father's strongly held resistance to bathe or change his clothes, she concluded that the evidence simply indicated a mental disability that prevented him from exercising sound judgment to provide himself with the necessaries of life.

Borins J.A. observed that this was the first reported conviction in Canada under s. 215(2)(b).[9] Thus, there was no guidance with respect to the appropriate range of sentence. In his view, affirming the sentence of six months would set the benchmark for similar cases and virtually mandate a term of imprisonment in all future cases where a child was convicted of failing to care for an elderly parent. He expressed concern that "the prospect of caregivers being imprisoned may have the effect of discouraging older children from becoming the caregivers of aging parents".[10]

Borins J.A. explored the history of the legislation. He concluded that "[t]he duty or responsibility of a child to be the caregiver of his or her aging parent and the criminalization of the failure to provide the required standard of care are based on late 19th-century legislation that is completely unsuitable in the 21st century".[11] He went on to note that, given the changing demographics of the Canadian population, this issue will arise more frequently in the future and thus the criminalization of the filial duty to a parent must be re-examined:

> [I]t is no longer satisfactory to rely on legislation designed for another purpose in another era to define what contemporary society requires of its members who have aging parents in need of care. Children of aging parents no doubt accept that their parents require some form of care, be it in respect to

> financial affairs or personal care. As the elderly lose their ability to remain self-sufficient, their adult children are gradually required to assume caregiving responsibilities. As a result of rising life expectancy, the child who becomes his or her parent's caregiver, is often well within the "senior citizen" age category. In addition, given that the age at which children are conceived is rising, the expectation is that there will be a sizeable group of children who will face a double "necessaries" duty in respect to both their children and their parents, raising, perhaps, the need to choose between the welfare of their children and their parents. It is, therefore, of critical importance that if the duty to care for an aging population continues to be within the ambit of the criminal law, that care is taken to clearly define what constitutes criminal neglect or penal negligence.
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> Unlike its role in shaping the duty to provide care for very young children, which is easily defined and recognized, and which is governed by s. 215(1)(a) of the Criminal Code, the challenge for government is to address the issue of the child caregiver of an aging parent in a way that clearly defines the circumstances in which criminal liability will be imposed. Determining the level of responsibility that an adult child should bear for an elder parent together with defining the appropriate standard of care are difficult and challenging issues. Indeed, one may ask whether they should continue to be governed by criminal law. Useful contemporary legislative models may be found in several states in the United States that have enacted specific laws related to elder abuse and elder care, entrenching a defined duty of care. I refer, in particular, to legislation in California, Massachusetts and Illinois. The Massachusetts legislation is especially instructive in its comprehensive definition of "caretaker" in defining appropriate boundaries for criminal liability.[12]

Leave to appeal to the Supreme Court of Canada was denied.[13] In some ways that is unfortunate because, although the accused's father showed signs of dementia, he adamantly refused to enter a nursing home and he had not been found incompetent under the relevant Ontario legislation. Increasingly, the courts will be required to deal with the competing principles of the autonomy of aging adults, on the one hand, and the need to recognize the risk implications and protection of their health and security, on the other. It would be useful if, in a future case, the Supreme Court undertook an analysis of those competing principles and provided guidance with respect to the courts' role in weighing those factors.

In ***R. v. Noseworthy***, a recent Ontario case,[14] Mr. Justice Then convicted Donald Noseworthy of manslaughter on the basis that he had "significantly contributed" to the death of his 78-year-old mother. She had suffered from Alzheimer's disease since 2004 and her death in July 2005 was due to congestive heart failure and "elder abuse with neglect". Although the accused had not directly

caused her death, Then J. accepted the evidence of the pathologist who testified that the accused's regular and unrelenting beatings of his mother for six months, together with her malnutrition, "precipitated, accelerated or exacerbated the diseases that led to her death". At para. 28, Then J. described the accused's conduct:

> The despicable conduct of the accused towards his mother consisted of continuous assaults, which were unrelenting, unmerciful and inexcusable, even though the accused knew full well, as she explained in her lucid moments, that she could not help her incontinence. The neglect and failing to provide nourishment, allowing her to live in filth, utterly bereft of proper hygiene borders on the obscene. All of this was visited upon the accused's elderly mother who was already frail and weakened by heart disease and substantially impaired in her cognitive abilities as well as her ability to communicate by virtue of deteriorating Alzheimer's disease.

Then J. agreed with the Crown that the principles relating to the abuse and neglect of children were appropriate to the sentencing of persons convicted of elder abuse and neglect, particularly where the victim suffered from cognitive and communicative impairment and death resulted. In both cases, the victims of such treatment are "innocent, utterly vulnerable and defenceless".[15]

Then J. accepted the Crown's submission that the appropriate range of sentence was five to eight years, and sentenced Noseworthy to seven years in prison for manslaughter. Noseworthy had pleaded guilty to the lesser offence of failing to provide the necessaries of life to his mother, under s. 215(2) of the ***Code***. Then J. sentenced him to two years on that offence, to be served concurrently. While the media hailed ***R. v. Noseworthy*** as a case of first instance, in fact, a son was convicted in Manitoba of "manslaughter by neglect" in 1915—in ***R. v. Dalke***.[16] There, the trial judge found that there was an implied contract on the part of the son to care for his father and that "necessaries" included care and attention as well as food and nourishment. He described the duty of the son to his father:

> [A]s the son had undertaken the care of his father, he was bound to execute his charge without wicked negligence, and, as he had not done so, he could, as a matter of law, be convicted of manslaughter when the death of the father was due to such negligence.

The accused was charged and convicted under s. 241 of the ***Criminal Code***, R.S.C. 1906, c. 146, a predecessor to s. 215(1)(c).

The literature predicts that, in the future, we can expect an increase in criminal conduct involving physical elder abuse[17] in prisons and long-term-care institutions, as well as within families.[18]

FAMILY LAW OBLIGATIONS

It is inevitable that enormous changes in the field of family law will also result from the huge demographic shift. One obvious area is parental support.

Section 90 of B.C.'s ***Family Relations Act***[19] ("***FRA***") focuses upon the dependency of the parent and the responsibilities of his or her child. It provides:

> (1) In this section:
>
> "child" means an adult child of a parent;
>
> "parent" means a father or mother dependent on a child because of age, illness, infirmity or economic circumstances.
>
> (2) A child is liable to maintain and support a parent having regard to the other responsibilities and liabilities and the reasonable needs of the child.

Section 91 of the ***FRA*** stipulates who may apply for a support order:

> (1) A person may apply for an order under this Part on his or her own behalf…
>
> (2.1) A designated agency, as defined in the Adult Guardianship Act, may apply for an order…
>
> (2.2) A representative [authorized under the Representation Agreement Act] may apply for an order…
>
> (4) A spouse or parent affected by an order…may apply for an order altering, varying or rescinding the order or cancelling or reducing arrears under it.

The history of parental support obligations is detailed in a recent study prepared by the British Columbia Law Institute: Report on the Parental Support Obligation in Section 90 of the ***Family Relations Act*** (March 2007) ("BCLI Report").[20]

Parental support is purely a creature of statute. No such obligation exists at common law. Parental support laws originated in England in the 16th century as part of the Poor Laws,[21] a legislative response to the overwhelming problem of poverty. The statute distinguished between the able-bodied poor who, from age 12 onward, were compelled to labour in work houses, and the disabled poor, referred to in the 1601 Act as the "poor, old, blind, lame and impotent". The latter were obliged to look first to their immediate families for support. If no support was provided, then the parent, child or grandparent responsible was liable to forfeit to the local authorities 20 shillings for each month they failed to provide support.[22] Significantly, the legal obligation of parental support was repealed in England in 1948 as part of the legislation establishing the U.K.'s post–World War II welfare state.[23]

British Columbia first enacted parental support legislation in 1922 during a period of national economic crisis. The ***Parents' Maintenance Act***[24] was intended to preserve government resources by shifting the social assistance burden from the state to the individual wherever possible. Section 4(2) of the ***Act*** provided:

Where the parent resides in any municipality required by law to make provision for its poor and destitute, the municipality may by any constable or peace officer, and in any other case the Attorney-General or any person authorized by him, may make the complaint on behalf of the parent, whether aid has been given by the municipality or by any public organization or institution to the parent or not; and all proceedings thereupon shall be the same and have the same effect as if the complaint had been made by the parent in his own behalf.

In 1972, the provisions of the ***Parents' Maintenance Act*** were consolidated with a number of other statutes to form the ***FRA***. In 1978, during a major revision of the ***FRA***, parental support was grouped with child and spousal support obligations. Although the number of cases involving parental support is negligible in comparison with those involving spousal and child support,[25] there has been a marked increase in such cases commencing in the 1990s in both B.C. and Ontario. In some cases, the applications are simply for parental support; in others, they are enmeshed with disputes over spousal support or property.[26] The most "notorious" case involving parental support in B.C. is ***Newson v. Newson***.[27] It generated five sets of written

reasons on interim applications at the trial and appellate levels. That case defined dependency as financial dependence brought about by age, illness, infirmity or economic need.

In materials prepared for a recent Continuing Legal Education course—Aging, Death & Divorce: The Big Three and the Perfect Storm[28]—John-Paul Boyd prepared a useful summary of the general principles in the B.C. cases dealing with parental support:

- A parent need not establish a pre-existing pattern of dependence upon a child before applying for an order for parental support from that child. A parent must only establish that he or she is in need of support. (***Newson***)
- Parental support may be payable where the actions of the child from whom support is sought has caused the financial dependence of the parent. (***Peach v. Emlyn***[29])
- The reliance of a parent on social assistance will not bar a claim for parental support. (***S.A.G. v. M.R.G.***[30])
- On an interim application for parental support, support should be ordered where the parent has established a prima facie entitlement and the children have the means to pay, without embarking on a deeper inquiry about the relationship between the family members best suited for trial. (***Newson***)
- Where the parent applying for support has a spouse, the parent must first seek spousal support from that person before applying for support payable by the spouse's child. (***Puskeppelies v. Puskeppelies***[31])
- A spouse subject to a spousal support order may not seek parental support on behalf of the recipient to defray his or her spousal support obligation. (***Smeland***)
- Evidence of estrangement will not disentitle a parent from claiming parental support, but estrangement will prevent the parent from claiming support sufficient to provide him or her with a standard of living equivalent to that of the child. (***Anderson v. Anderson***,[32] ***Newson***, ***S.A.G.***)
- An adult child's liability to pay spousal or child support ranks ahead of any liability to pay parental support. The child's ability to pay parental support should be assessed only after those obligations have been fulfilled. (***Hua v. Lam***[33])
- Parental support will not be payable where the child does not have the means to pay support, even where entitlement is established. (***S.A.G.***)
- An obligation to pay parental support may be distributed among siblings as a joint liability or imposed on certain siblings and not on others, and may not extend to children-in-law. (***Newson***, ***Anderson***, ***Peach***)

The BCLI Report notes that the law in this area illustrates the strain of trying to apply concepts created for spousal and child support cases to those concerning parental support. On the other hand, there are striking similarities between the cases: repeated applications for interim support that never reach trial for final resolution; failure to make timely and full disclosure of financial information; and allegations of abuse or misconduct stretching far back into the distant past.

One can assume that the Attorney General commissioned the BCLI Report to address the anticipated bulge in aging baby boomers who may lack sufficient resources to support themselves. The standard retirement age of 65 was introduced at a time when people were not expected to live much longer that that. Legend has it that Otto von Bismarck instituted a mandatory retirement/pension entitlement at the age of 65 after his troops returning from battle demanded pensions and his advisers told him that the age of life expectancy was 63. Accordingly, it was anticipated that the majority of the population could easily "make do" on their private and/or government pensions in their meagre retirement years. Today, as the post-retirement phase has extended substantially, the population of economically vulnerable "older olds" continues to grow.

The BCLI Report, at p. 23, recognizes the arguments in favour of parental support laws but recommends their repeal:

> Proponents of parental support laws argue that the existing legislation can be updated to advance contemporary policy goals. Reformed parental support laws would primarily meet the concerns of the poor, particularly the older poor. The existence of a legal remedy would give them one more avenue for recourse, which may help to relieve their distress. More broadly the renewal of these laws could provide benefits for the family (by strengthening family ties) and the general public (by lessening the burden on government to provide assistance to the poor).
>
> However, the BCLI Report recommends repealing s. 90 of the FRA on the basis that it is misguided to attempt to transform the moral impulse that children have or should have to support their parents into the force of law. Litigation is an expensive and inappropriate way to reduce poverty, and its adversarial nature is destructive of familial relationships. Further, direct governmental support of the poor is more efficient and economical than supporting an effective litigation process which would involve increased government spending on legal aid and maintenance enforcement.[34]

Others share this view. For example, in ***Newson***, Esson J.A., who granted leave on the second appeal, vigorously recommended the repeal of s. 90:

> Regrettably, the defendants must continue to pay the price of being involved in this pioneering endeavour, a price which includes a distasteful invasion of their privacy. While it will be no comfort to them, some good may come of all of this if the appropriate authorities in due course consider whether the benign neglect conferred on this provision for over seven decades did not reflect a sound community consensus that this form of compulsion does not benefit society. If so, it may be concluded that the public weal would be best served by a repeal of the section.
>
> Alberta repealed its parental support obligation in 2003. The BCLI Report notes that Alberta's Minister of Justice commented that such an obligation was inconsistent with the government's policy of encouraging independence for seniors.[35]

It is not at all clear which direction the concept of parental support is likely to take in this province—repeal as in Alberta and the U.K., and as suggested by Esson J.A., or, faced with a growing population of financially dependent parents, encouragement of increased reliance on the ***FRA*** provisions to transfer the burden from the public purse to adult children? Just as the government introduced the legislation and machinery of the Family Maintenance Enforcement Program to ameliorate financial need caused by "deadbeat dads", it could institute policies to ensure that "deadbeat children" support their aging parents. Child support guidelines and spousal support guidelines could be the model. The draft Rules of Civil Procedure relating to family law proceedings still contemplate parental support applications.

In ***R. v. Peterson***, Weiler J.A. touched briefly upon the interaction between an adult child's civil and criminal responsibility to a dependent parent:

> The dependency of the parent under a disability on an independent adult child is justified not only by their past course of dealing in which the parent supported the child but also by their relationship to one another in which an element of trust will usually be present. The history of the section supports the interpretation that the section was intended to require certain minimal standards in relation to dependants such as wives and children and was later broadened: see R. v. Middleton, [1997] O.J. No. 2758, at paras. 10–14. The mere breach of a federal or provincial statute, such as s. 32 of the Family Law Act, which imposes a duty on a child to support a parent, does not constitute a crime. It is nevertheless proper for the trier of fact to consider legislation governing the accused in order to determine whether the

accused's actions or inactions show a "marked departure" from the conduct expected: see by analogy R. v. Leblanc, [1977] 1 S.C.R. 339; R. v. Bergeron (1999), 132 C.C.C. (3d) 45 (Que. C.A.).[36]

CONCLUSION

The demographic trends in Canada are dramatic. The aging of our population presents complex problems that invite, indeed require, careful solutions. Issues such as the age of retirement, pension eligibility and the provision of public services are increasingly the focus of policy and legislative initiatives.

As the elderly population increases, so too will the economic and social pressures to ensure their maintenance and well-being. One of the results of longevity is that baby boomers may spend more of their adult life taking care of their parents than looking after their children. Increasingly, individuals in their 60s and 70s are becoming caregivers for elderly parents.

But what of adult children who do not or cannot provide financial support to their parents? In both the criminal and civil context, the time is fast approaching when provincial and federal governments will have to decide whether the responsibility for supporting elderly indigent parents should rest primarily with the state or the family.

ENDNOTES

1. Portrait of the Canadian Population in 2006, by Age and Sex, 2006 Census (Ottawa: Minister of Industry, 2007).
2. Population Projections for Canada, Provinces and Territories, 2005 to 2031 (Ottawa: Minister of Industry, 2005). Statistics Canada defines "seniors" as persons 65 years of age and older.
3. Most dramatic is the relationship between elderly women and poverty. In 2004, the overall poverty rate (measured by "low income cut off" points based on how much money is available to spend on basic necessities) in Canada for all poor seniors was 14 per cent. The poverty rate was at 17.8 per cent for women in that age group and 9.3 per cent for men: Poverty Profile, 2002 and 2003, National Council of Welfare. Relatively shorter, and interrupted, working lives have resulted in much lower private and public pension entitlements for women.
4. While old age by itself does not cause dementia, obviously the likelihood of cognitive decline and dementia increases with age.

5. In R. v. Peterson, infra note 6, counsel conceded that the reverse onus was unconstitutional and that the onus was upon the Crown to prove the essential elements of the charge beyond a reasonable doubt.
6. R. v. Peterson, 201 C.C.C. (3d) 220 (Ont. C.A.)
7. At para. 37.
8. Subsequently, the maximum punishment was increased from two to five years: S.C. 2005, c. 32.
9. But see R. v. Dalke, infra note 16.
10. At para. 76.
11. At para. 65.
12. At paras. 68–69.
13. [2005] S.C.C.A. No. 539 (QL).
14. The facts are taken from Then J.'s reasons for sentence, unreported, March 20, 2007.
15. At para. 28.
16. R. v. Dalke (1915), 27 D.L.R. 633 (Man. C.A.), affirming the conviction.
17. Elder abuse has been categorized as physical abuse, financial and material abuse, sexual abuse, and emotional or psychological abuse: Abuse and Neglect of Older Adults: A Discussion Paper (Ottawa: Public Health Agency of Canada, 2005).
18. See, e.g., Marie Beaulieu, Robert M. Gordon and Charmaine Spencer, "The Abuse and Neglect of Older Canadians: Key Legal and Related Issues" in Ann Soden, ed., Advising the Older Client (Markham: LexisNexis Canada Inc., 2005).
19. R.S.B.C. 1996, c. 128.
20. The report, to discuss options for reform of s. 90 and recommendations for amendments, was funded by the Ministry of Attorney General and forms part of the ministry's review of the FRA.
21. An Act for the Reliefe of the Poore, 39 Eliz. I, c. 3 (1597), and An Act for the Relief of the Poor, 43 Eliz. I, c. 2 (1601).
22. The 1601 Act, ss. 7 and 11.
23. National Assistance Act, 1948 (U.K.), 11 and 12 Geo. VI, c. 29, s. 1.
24. S.B.C. 1922, c. 57.
25. The BCLI Report author interviewed the deputy director of maintenance enforcement in November 2006 and learned that, of approximately 50,000 active files, only 10 involved cases of parental support.
26. E.g., in Smeland v. Smeland, [1997] B.C.J No. 1475, Humphries J. dismissed an appeal from a master who had held that the husband did not have status under the FRA to seek contribution from his estranged wife's adult children toward the maintenance that he had been ordered to pay to her.

27. (1994), 99 B.C.L.R. (2d) 197 (S.C.); (1997), 35 B.C.L.R. (3d) 341 (C.A.); (1998), 53 B.C.L.R. (3d) 191 (S.C.); (1998), 39 R.F.L. (4th) 410 (C.A.); and (1998), 65 B.C.L.R. (3d) 22 (C.A.).
28. Intergenerational Conflict, Part I: Parental Support, February 2007.
29. [1999] B.C.J. No. 1455 (S.C.) (QL).
30. 2000 BCPC 45.
31. [1997] B.C.J No. 2080 (S.C.) (QL).
32. [2001] B.C.J. No. 418 (S.C.)(QL).
33. (1985), 49 R.F.L. (2d) 6 (B.C.P.C.)(QL).
34. Similar arguments could, of course, be made with respect to child and spousal support.
35. In contrast, Singapore enacted a parental support law in 1995: Maintenance of Parents Act (Cap. 167B, 1996 Rev. Ed. Sing.). The BCLI Report notes that the Singapore government acknowledged that one of the purposes of that Act was to forestall the development of a "Western-style state welfare system".
36. Supra note 6 at para. 40.