

Lesbians Demand Custody Rights

By Ellen Agger

Mrs. D., a lesbian mother in the Toronto area, is engaged in a court battle with her ex-husband for custody of two of her three children now aged, 15, 13 and 12. She must remain anonymous here because of the risk of losing her home and her job. She was divorced in May 1976, at which time her husband retained custody of the children, who had lived with him since his separation in 1972.

Mr. D. is claiming that his ex-wife's lesbianism makes her unfit to raise the children. In June, after Mr. D. had allegedly indecently assaulted his 13-year-old daughter several times, the two younger children joined their mother and her lover, with whom Mrs. D. has been living for the past 4 years. Both women have had steady jobs for a number of years.

Because of the criminal charges pending against Mr. D., the judge granted temporary custody to Mrs. D. Under these circumstances, her lesbianism did not bar her from obtaining custody.

But Mrs. D.'s situation is, in many ways, unusual. Every year in Canada hundreds of lesbian mothers lose their children. Most of these cases never reach the courtroom. Women give up their children without a fight because they can't afford to raise them or to engage in a costly court battle.

In the courts' eyes, lesbian women are usually considered "unfit" to be mothers, although there is no law specifically stating this. They must prove that they can provide a more "normal" and stable home than their husbands (or the Children's Aid Society) can. If the husband is a convicted criminal, an alcoholic, or drug user, her chances are better — if she has a stable relationship and job herself, and doesn't belong to any public lesbian groups.

The threat of losing their children

prevents many lesbians from leaving marriages. Others — lesbian mothers trying to raise children without a man's wages — have to live with the continual dread of their lesbianism becoming known. For a custody is never final. It can be challenged at any time until the child is 16.

In the USA lesbian mothers have drug user, her chances are better — if their children in less than a dozen cases. In Canada there has only been one, in Alberta in November 1975. Sometimes the courts have given the children to the mother on the condition that she never associate with other lesbians, or that she live apart from her lover; but usually they give custody to the father.

Child custody is becoming a mounting concern to many women. Over the past 20 years, more women, lesbian and heterosexual have left dependent relationships with men. Increasingly, the price they pay for their independence is the loss of their children to husbands, relatives, or the Children's Aid Society. On the other hand, rising prices, layoffs, and lower wages have forced other women back into marriages, in order to have or keep their children.

In the last few years, lesbian women in North America and England have begun fighting openly for the right to custody of their children. They are setting up lesbian mothers' defense funds to help each other cover court costs, publishing newsletters, and circulating information to women to lessen the isolation and vulnerability of fighting a case alone.

In Toronto women from Wages Due Lesbians and the Community Homophile Association of Toronto (CHAT) co-sponsored a benefit dance for Mrs. D. on October 28. All women, straight and lesbian, were invited. From all accounts, it was a highly successful event.