



Margaret Wente

Chronicle of a divorce from hell

JARNDYCE v. Jarndyce is the name of the impossibly convoluted lawsuit that inspires the title of Charles Dickens's *Bleak House*. It enriches armies of lawyers and drags on for decades, until everyone has forgotten what it was originally about. It finally expires when it has devoured all the assets that were disputed in the first place.

Wendy Dennis recounts the modern version of Jarndyce v. Jarndyce in the current issue of *Toronto Life* magazine. Her story is called *The Divorce From Hell*. It recounts the formal dissolution of a marriage and the quarrel over the assets, which include two children. It will make your blood curdle.

Ms. Dennis is a very good journalist with a long track record. But the story is gigantically controversial in Toronto journalistic circles because she happens to be a participant in it. She is the current partner of Ben Gordon, the man whose losing battle for a civilized divorce she recounts. Many people are arguing that her relationship with Ben, whom she met after he split up with his wife, creates an impossible conflict of interest and that she never should have written the story. They are also disturbed by what they regard as the further exploitation of the children, whose pictures and letters appear in the magazine.

These are extremely interesting issues and worth a lot of debate. But it would be a shame if the furor over her part in the story (which she is quite open about) were to obscure its central message. The message is that the system we've constructed to mediate combative divorces is worse than no system at all.

Her story is a devastating portrait of a family destroyed twice over: first by marital failure, and then by a justice system that metes out injustice and helping professions that do harm. Her account of Ben Gordon's fight to work out a custody arrangement for his kids is by turns excruciating, numbing and gruesomely hypnotic. It's like watching a car crash that goes on, in slow motion, for years. And there are ambulance-chasers by the score.

Because Ben and his wife could agree on very little, and because they never agreed on very much for very long, they soon fell into the clutches of the court system and the professional social-work establishment. By the time Ben threw in the towel — he eventually lost his kids, his house and every penny he had in the bank — he and his former family had been intimately involved with, by my count, at least 20 different judges, lawyers, masters of the court, psychologists, counsellors, mediators and arbitrators, not to mention various police officers and justices of the peace. There were hearings, motions, court appearances and appeals too numerous to count. One trial alone lasted for 13 days. No individual bit of it was particularly unjust. What was unjust was the cumulative weight of the process itself.

MANY of the major and minor arrangements of Ben's financial and family life came to be adjudicated by professionals. The sale of the matrimonial home, for example, took countless visits to court, including a hearing before Chief Justice Charles Dubin and two other judges of the Ontario Court of Appeal, which, one thinks, might have had better things to do. (By the time the house was finally sold, the real-estate market had crashed and the house's value had been cut in half.)

There were endless psychological assessments of Ben, his ex-wife, the kids, the parents' new partners and the new partners' kids. There was a surreal meal at McDonald's, ordered up by a child psychiatrist who wanted to observe the family interaction so that he could determine parental fitness. "One day around 4 in the afternoon," Ms. Dennis writes, "we found ourselves under the golden arches, wolfing down Chicken McNuggets and fries, while a psychiatrist, whose view of us would determine the most critical aspect of our future, sat beside us, silently staring."

There was a bad lawyer who charged Ben \$175,000 and then went bankrupt. There was a social worker named Helen who was put in charge of the parenting plan and became, in effect, the parent. It was she who decreed, for example, that both children should get a midweek overnight visit with the other parent and have private phones in their bedrooms. It was she who decided how they would spend their summer vacations. "Isn't it great," said Dad to the kids, "that Helen has decided that you'll go to camp?"

Ben and his former wife aren't rich people. They are ordinary middle-class folks. Some of their problems were no doubt their own fault. And some of the people they encountered when their marriage broke down no doubt genuinely meant to help them.

But in the end, Ben decided he'd had enough help. Weary, broke and fearful that his kids were being destroyed by the endless conflict without closure, he quit. He gave up. He hasn't spoken to his kids now in almost two years.

Here's what I think: When a marriage breaks down and the parents can't work out custody of the kids, they should flip a coin, winner take all. It would be no more arbitrary than the system we have now. It would be a whole lot cheaper. And it would be a great deal less cruel.