

Absolute Discharge

CASKE 7 AUG 12/85

For Local Judge

Granting an absolute discharge to Judge Ronald A. MacDonald in Antigonish court last Tuesday, Family Court Judge Robert Butler said that after considering all the evidence he felt it would not serve the public interest to convict Judge MacDonald. The absolute discharge means that Judge MacDonald will have no criminal record of conviction, despite his guilty plea.

Judge MacDonald pleaded guilty in June to assaulting his wife, Janet during a family argument. Since that time he has been suspended from his duties as a Judge of the Provincial Court by Chief Judge Harry How. This suspension put his case before a judicial council made up of four judges and the president of the Nova Scotia Barristers' Society. The suspension is pending until the council acts, either by doing nothing; extending the suspension; or recommending to the provincial cabinet that Judge MacDonald be removed from the bench. The council reserved decision after a hearing on August 4.

In bringing down the absolute discharge ruling, Judge Butler told the court that granting an absolute or a conditional discharge is a complex issue. Assault of any kind, par-

ticularly against women, is serious and never justified, he said, but he added that he wanted to be fair and not yield to the clamour for harsh treatment of offenders. He explained that he was not certain the guilty plea was appropriate, commenting that there was a degree of provocation, and he quoted the victim as saying just before she was slapped, "You're the biggest asshole around here. . . Touch me and you're dead."

Opposing any form of discharge, Crown Prosecutor Frank Edwards pointed out that Judge MacDonald's effectiveness as a judge had been damaged, and that a discharge would be contrary to the public interest. He emphasized that the credibility of the justice system must be maintained, and he said the defense attempted to trivialize the gravity of the offense. He recommended a two-year term of probation during which Judge MacDonald would receive counselling.

Judge Butler agreed with defense lawyer Terry Cooper, who claimed that there was no need for rehabilitation since Judge MacDonald sought and received counselling after the incident, nor did he think that treatment should be a condition of the discharge.

CASKE 7 AUGUST 16/85 Groups React to Court Decision

Local women's groups reacted to the ruling made by Family Court Judge Robert Butler in Antigonish court last Tuesday when he granted an absolute discharge to Antigonish Judge Ronald A. MacDonald.

Commenting on the ruling, the Naomi Society for Battered Women, an organization founded to help women and their children in family crisis, released the following statement:

"The Naomi Society notes with regret that a plea of guilty to a charge of wife assault appears to have been awarded with an absolute discharge.

"We believe that in awarding such a judgment the issue of wife assault has been trivialized by the legal system. If such a decision becomes a precedent, then the progress that has been made in recognizing the seriousness of family violence will be significantly set back.

"The Naomi Society condemns all forms of physical violence and in accordance with the Criminal Code believes that 'a slap in the face' is a criminal offense.

"The Naomi Society recognizes that most men are not abusive and that the majority of women are not abused by their partners. However, we are concerned with those women who are still living within violent relationships and may be receiving mixed

discharge. Abusers may in the future argue that an act of wife assault is only an insignificant, isolated incident caused by a marital disagreement. We believe that domestic violence is not a family matter and, like the criminal justice system, argue that all incidents of known spousal assault have to be reviewed carefully and acted upon so that the community at large can see the seriousness of such crimes and that justice is seen to be done."

The Antigonish Women's Association, which considers working toward the equality of women as its mandate, referred to the ruling in light of this mandate as follows:

"The mandate of the Antigonish Women's Association is to work toward the equality of women. It is in light of this interest that we feel compelled to comment on the court decision rendered by Judge Butler in the case of Mr. Ronald A. MacDonald. The verdict rendered, on Mr. MacDonald's plea of guilty to a charge of spousal assault, was an absolute discharge.

"We see this decision as re-opening the debate as to what constitutes and can legally be defined as spousal assault. The decision can be interpreted to mean that assault that is done impulsively, and that is not premeditated, does not constitute

dent has been set in this case which can be used in future situations of power inequality, including assault charges. Any person claiming that they hit someone out of impulse can cite this decision as a precedent.

"The women's movement for equality has always insisted that matters inside the family such as incest, spousal assault and child abuse need to be brought within the purview of the public domain. We are afraid that Judge Butler's decision will have the effect of pushing these crimes back into the private realm, where the victims are effectively silenced. The message to women wanting to end family violence is not encouraging.

"Women's confidence in the law has been eroded by the court's decision to find innocent a man who has pleaded guilty to spousal assault. This confidence will be further eroded if the judicial enquiry returns Mr. MacDonald to the bench."