

As Professor Luryi graphically points out,<sup>4</sup> Marx, Lenin and Engels were the holy triumvirate of the new Soviet religion, with Marx and Engels playing the additional roles of chief religious scribes; the role of Lenin, at least in Soviet family law being, that of a mere minor architect; he contributed more symbolism than substance. So if Marx be the father, then Engels is the son and Lenin the holy ghost. The role their writings and comments played in the development of Soviet family law is analogous to that of the old and new testaments in the formation and evolution of family law in the Western world.

## II. CONSTITUTIONAL ASPECTS

Canada, of course, is a prime example of a "federal" legal system. Like our American brethren to the south, we are ever mindful of the intricate system of legal checks and balances that are so necessary to ensure the viable operation of a sovereign country that is geographically very extensive, yet regionally diverse. The same problems are endemic to the Soviet Union; perhaps to an even greater degree. The largest land mass in the world has many distinct ethnic and regional boundaries. Hence, we note that, in addition to the Fundamentals of Soviet family law which is the basic legislative code applicable to all Russian citizens, there are separate and distinct "Family Codes" adopted in each of the 15 republics of the U.S.S.R.<sup>5</sup> The Canadian "Fundamentals" are enshrined in the *British North America Act*.<sup>6</sup> Our regional "codes" in the main are local jurisdictional statutes dealing with the solemnization of marriage,<sup>7</sup> matrimonial causes other than nullity and divorce,<sup>8</sup> the disposition of marital property,<sup>9</sup> and child welfare legislation.<sup>10</sup> The Russians are in an advantageous position when dealing with the final resolution of the constitutional allocation of powers. A monolithic state, modelled in theory, at least, on true collectivist principles, need not bedevil itself with the subtle legal niceties of interpreting true constitutional constraints. In the final analysis, it is the Politburo of the Central Committee of the Communist Party that can actually make centralist decisions that affect all of the Soviet citizenry.<sup>11</sup> As shall be discussed later, political considerations play a more major role in the Soviet legal system than in Western legal systems. Nevertheless, when political paramountcy is deemed not to be overly significant, then regional considerations can be the controlling factor in resolving legal disputes.<sup>12</sup>

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4. *Id.*, at n. 1-13.

5. *Id.*, at n. 14-16.

6. 30 & 31 Vict., c. 3 (U.K.).

7. See e.g., *The Marriage Act*, R.S.M. 1970, c. M50.

8. See e.g., *The Family Maintenance Act*, S.M. 1978, c. 25 (F20).

9. E.g., *The Marital Property Act*, S.M. 1978, c. 24 (M45); *Family Law Reform Act*, S.O. 1978, c. 2.

10. E.g., *The Child Welfare Act*, R.S.M. 1970, c. C80.

11. Luryi text, *Supra* n. 14.

12. *Id.*, at n. 21.