

Mr. Speyer: Mr. Speaker, I did not see the Hon. Member of the Liberal Party standing. Because the amendment is very much the same, I think probably I should let the Hon. Member for Mount Royal (Mrs. Finestone) speak and then I can respond to both Hon. Members.

Mrs. Sheila Finestone (Mount Royal): Thank you, Mr. Speaker, and I thank the Parliamentary Secretary. The fundamental principle behind these three motions is to remove fault, in essence, from the divorce Bill. I believe what we have here is a difficult situation because in actual fact it would seem pointless to maintain fault in the present divorce Bill because we are going to have to take into consideration, if we maintain fault, that is, adultery or physical or mental cruelty, all of the actions which would be required to prove there is fault, which will entail hiring lawyers and compiling evidence in order to develop one's case.

As I recall the argument of the Minister of Justice (Mr. Crosbie), he suggested that the reason for fault provisions was to facilitate immediate divorce in the case of anyone on those fault grounds. In today's society, the faulted spouse can go to his or her own province and get immediate relief and he or she can get provisional relief with respect to custody and maintenance. I suggest that this is in essence costly, vindictive and time consuming. There also seems to be a lack of consistency. Although you can go to court on the basis of fault, that is adultery and physical or mental cruelty, you cannot use those facts when it comes to awarding custody or maintenance. In a very small percentage of divorces are those reasons used as grounds. Marriage breakdown and a one-year period of separation would seem to me to be adequate. However, if the Government intends to maintain the fault provisions, I would very much like to support the amendment put forward by the Hon. Member for Burnaby (Mr. Robinson) in Motion No. 5. This would mean that should marriage breakdown take place and it is more than a year before it comes to court, then it should no longer be considered.

● (1530)

Mr. Speyer: Mr. Speaker, I have heard the submissions of the Opposition Party's critics and they are really making the same argument. When the Liberals brought in their divorce Bill, one of the fundamental concepts was no-fault divorce. Many people favour that concept. The Government did not choose that approach. It would be wrong to call this Bill a no-fault Bill. It is a hybrid because it contracts the three-year period of separation to one year for marriage breakdown. That is a very sensible social advance for people who do not want to have their private life made public.

On the other hand, this Party recognizes that fault should be retained, both on the grounds of cruelty and adultery. It is our view that marriage is a very special contract. Indeed, within some churches, including the Catholic church, it is a sacrament. Sometimes there is a fundamental breach of that contract and people ought to be allowed to sue on that basis. We have made a policy choice. There is no right or wrong but there is a question of policy preference. We are maintaining

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fault as grounds for divorce as it pertains to adultery and cruelty so that a person may seek and receive a divorce if those are the circumstances.

The Acting Speaker (Mr. Charest): Debate? Is the House ready for the question?

Some Hon. Members: Question.

Mr. Speyer: Mr. Speaker, are we going to be posing the questions now or are we going to be doing it at the end?

Mr. Gauthier: Now.

The Acting Speaker (Mr. Charest): So far as I know the questions will be asked now on motions which are grouped and not contested. If a vote is required, then it will be deferred.

The question is on Motion No. 4 standing in the name of the Hon. Member for Burnaby (Mr. Robinson). Is it the pleasure of the House to adopt the motion?

Some Hon. Members: Agreed.

Some Hon. Members: No.

The Acting Speaker (Mr. Charest): All those in favour will please say yea.

Some Hon. Members: Yea.

The Acting Speaker (Mr. Charest): All those opposed will please say nay.

Some Hon. Members: Nay.

The Acting Speaker (Mr. Charest): In my opinion, the nays have it.

Motion (Mr. Robinson) negatived.

The Acting Speaker (Mr. Charest): The question is now on Motion No. 4A standing in the name of the Hon. Member for York South-Weston (Mr. Nunziata). Is it the pleasure of the House to adopt the motion?

Mr. Speyer: Mr. Speaker, with respect to the report stage analysis which the Speaker gave us approximately 15 minutes ago, he made the point that a negative vote on Motion No. 4 required a vote with respect to Motion No. 4A. Is that what the ruling is?

Mr. Frith: That is correct.

The Acting Speaker (Mr. Charest): That is correct. That is exactly what we are doing. A negative vote on Motion No. 4 requires the question to be put on 4A.

Therefore, is it the pleasure of the House to adopt the motion?

Some Hon. Members: Agreed.

Some Hon. Members: No.