

*Divorce Act*

tion of any economic advantages or disadvantages to the spouses arising from the marriage. There has to be an apportionment between the spouses of any financial consequences arising from the care of any child of the marriage and any obligation apportioned between them. Of course, most important, there is the relief of any economic hardship of the spouses arising from the breakdown of the marriage.

Dealing with one of the factual situations illustrated by the Hon. Member for York South-Weston (Mr. Nunziata), when a woman and a man have been married for a long period of time, we want to relieve economic hardship, but surely the crucial question is the duration of the marriage and the functions performed by each spouse. Let me illustrate. Suppose a young man of 25 who is a dentist gets married. The wife becomes a housewife and the marriage lasts 35 years. It would be wrong for a court to expect that there should be a limited order like the one which is specifically designed for young people whose marriages without children might last for a period of a year or two. If a marriage lasts 30 or 40 years, it is not the age of the spouses about which we are concerned but the duration of the marriage and the apparent inability of a person to return to the workforce after being out of it for 40 years. Age *per se* means nothing. It is the duration of the marriage and all of the circumstances that is the important factor.

Similarly, with respect to the amendment, there is no hardship arising out of a marriage. There is a hardship arising out of the breakdown of a marriage. The only hardship within a marriage might be adultery, but that cannot be considered any longer with respect to the awards of maintenance as provided by the Bill.

The final representation I would like to make on behalf of the Government deals with the NDP assertion that we are trying to equalize everything. That is not our intention. Specifically, it is a policy difference. We do not try to equalize but, in a given set of circumstances, try to make things fair.

**Mr. Speaker:** Is it the pleasure to the House to adopt the motion?

**Some Hon. Members:** Yes.

**Some Hon. Members:** No.

**Mr. Speaker:** All those in favour will please say yea.

**Some Hon. Members:** Yea.

**Mr. Speaker:** All those opposed will please say nay.

**Some Hon. Members:** Nay.

**Mr. Speaker:** In my opinion the nays have it.  
Motion No. 12 (Mrs. Finestone) negatived.

**Mr. Speaker:** That takes care of Motion No. 14 as well.  
Motion No. 14 (Mr. Robinson) negatived.

**Mr. Speaker:** The next question is on Motion No. 13 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.

**Mr. Speaker:** All those in favour please say yea.

**Some Hon. Members:** Yea.

**Mr. Speaker:** All those opposed please say nay.

**Some Hon. Members:** Nay.

**Mr. Speaker:** In my opinion the nays have it.

*And more than five Members having risen:*

**Mr. Speaker:** Pursuant to Standing Order 81(11), the recorded division on the proposed motion stands deferred.

I am given to understand that the House is now ready to present some arguments. Is that correct?

**Mr. Hnatyshyn:** Mr. Speaker, I appreciate the opportunity of making what I hope will be a very brief and pointed intervention with respect to the procedural admissibility of the motions on the basis of your tentative ruling. In reviewing the motions on the Order Paper, I discovered that the objections I had intended to raise in relation to Motion No. 1 related to Motion No. 2, which, you have cogently argued, is out of order. Therefore, I will move to Motion No. 3B.

Motion No. 3B standing in the name of the Hon. Member for Mount Royal (Mrs. Finestone), seems to achieve the same purposes as Motion No. 1, and that is, the extension of the definition of a child of a marriage to children up to age 18. This will extend the Bill's provisions well beyond the scope of the Bill as agreed to in principle at second reading stage. It seems to me that on strict procedural grounds this amendment, being beyond the scope of the Bill, ought not to be put to the House. I think Your Honour will find that Citation 773(1) applies to this amendment, and I quote:

● (1630)

An amendment is out of order if it is irrelevant to the bill, beyond its scope—

With respect to Motion No. 8 which stands in the name of the Hon. Member for Calgary East (Mr. Kindy), it appears to import an entirely new concept into the Bill, namely, compulsory mediation. I know that Your Honour has addressed this matter. While the Bill provides for conciliation to be suggested to the parties prior to a divorce proceeding commencing, the conciliation is voluntary. Compulsory mediation, on the other hand, goes well beyond this provision to require the parties to participate in a process of mediation. As well, there are financial and jurisdictional applications, financial inasmuch as expenditures would be necessary for the implementation of this procedure, and provincially inasmuch as there are elements outside the jurisdiction of the federal authority and within