

Divorce Act

otherwise the time which is necessary for debating the Bill will, out of necessity, be shortened. It may then be very difficult to get everything done.

Mr. Hnatyshyn: May I just address that? I could not agree more, Mr. Speaker, with the remarks, but that is not to abrogate the necessity of having brief interventions with respect to the procedural admissibility of the various amendments. I think we can save ourselves even more time. In fact there are, in my submission, a number of these amendments which are, while based on profound and deep reasoning on the part of Hon. Members who put them forward, simply procedurally out of order and, therefore, we might save ourselves some time. Your suggestion, Mr. Speaker, I think, is a very good one. After we finish the first round of debate, we can come in at an agreed time, rise and make our presentations on the balance of the procedural arguments on a brief basis, and then allow the Chair to make a ruling.

Mr. Speaker: May I clarify this for everyone? Shall we hear procedural argument at four o'clock?

Mr. Gauthier: No.

Mr. Speaker: The Hon. Member for Ottawa-Vanier (Mr. Gauthier) does not want to hear procedural argument?

Mr. Gauthier: Mr. Speaker, I think it would be appropriate for us to start debate now. My only difficulty is with Motions Nos. 4, 4A and 5, which the Chair has ruled to be in order. They should be debated now, but my difficulty is that the Hon. Member for York South-Weston (Mr. Nunziata) is in committee right now so he cannot move his motion. That would be my only difficulty.

Mr. Deans: Someone else can move them. You move them.

Mr. Gauthier: No, they have to be moved by the Hon. Member himself.

Mr. Deans: By unanimous consent.

Mr. Gauthier: Would Hon. Members give me unanimous consent to my moving that motion?

Mr. Deans: Sure.

Mr. Gauthier: Fine.

Mr. Speaker: We are taking the time now which should be put into procedural argument. This is about all the time that should appropriately be allowed it.

Mrs. Finestone: Mr. Speaker, I would like to understand. Are we going to debate Motions Nos. 1, 3A and 3B?

Mr. Speaker: I received a representation from the President of the Privy Council (Mr. Hnatyshyn) that Motions Nos. 1 and 3B are out of order. The President of the Privy Council wishes to present argument on that matter. I take it, therefore, that there is consent that we should now proceed to calling Motions Nos. 4, 4A and 5 and have them moved by the Hon.

Member for Ottawa-Vanier (Mr. Gauthier), with consent, for the Hon. Member for York South-Weston or, at least, that motion which which is in the name of that Hon. Member.

Mr. Svend J. Robinson (Burnaby) moved:

Motion No. 4.

That Bill C-47, be amended in Clause 8 by striking out lines 38 to 44 at page 5 and lines 1 to 8 at page 6 and substituting the following therefor:

"lished only if the spouses have lived separate and apart for at least one year immediately preceding the determination of the divorce proceeding and were living separate and apart at the commencement of the proceeding."

Mr. Jean-Robert Gauthier (for Mr. John Nunziata) moved:

Motion No. 4A

That Bill C-47, be amended in Clause 8 by striking out lines 1 to 8 at page 6.

Mr. Svend J. Robinson (Burnaby) moved:

Motion No. 5

That Bill C-47, be amended in Clause 8 by adding immediately after line 8 at page 6 the following:

"(3) A court may only grant a divorce on the grounds set out in paragraph (2)(b) where breakdown of the marriage cannot be established on the ground set out in paragraph (2)(a)."

Ms. Lynn McDonald (Broadview-Greenwood): Mr. Speaker, I just want to speak very briefly to Motions Nos. 4 and 5. The intent of Motion No. 4 is to make the Divorce Act for Canada one based entirely on marriage breakdown without the accusation of fault by one partner about the other. This was the intent of the earlier legislation and this has been the position of women's organizations across the country. It has been the position of the Canadian Advisory Council on the Status of Women and, indeed, it is the majority position of the Senate Committee which looked at this question. It is, of course, not the situation that there may not be any fault to determine between the couple. Indeed, there may be plenty of fault on one side and not on the other. However, our position for the sake of the children, for the possibility of reconciliation, and for the sake of making suitable arrangements for custody and access, is that it would be far better to have the divorce taken care of on the basis of marriage breakdown, established after a year's separation, and not on the basis of an accusation of a marital offence as it is in the present law.

The intent of Motion No. 5 is that if Motion No. 4 does not pass, in other words, if fault grounds are retained in the legislation, the fault would only be used in situations where there was some emergency or some real reason for proceeding quickly. This, the House will remember, was the argument used for reintroducing the fault concept. It was in cases of assault, child abuse and in cases of very critical breakdown in the marriage so that the couple should not have to wait for a year but should be able to proceed more quickly to the divorce.

Clearly, there is no need to have these fault grounds if the couple has already been living separately and apart for that year. So the intent of Motion No. 5, our amendment, is that if fault is retained, it will only be used for real emergency type divorces and that the normal course of events would be to use the one-year separation arrangement.