

Divorce Law Reform

certain persons qualified to sit and act as judges and for their remuneration while so acting and for certain other provisions in connection with the administration of the act.

Motion agreed to and the house went into committee thereon, Mr. Batten in the chair.

[*Translation*]

Mr. Trudeau: Mr. Chairman, for a long time divorce has rightly been a matter for concern to the Canadian people.

We felt duty bound, as a government, to reform divorce laws, to try and bring them more in line with the present social climate, without, for all that, running against the demands which are normal and worthy of respect of those who have reticences on that subject.

In trying to draft the present bill we met with two types of difficulties. The first, Mr. Chairman, is related to the field of federal-provincial relations and the second were mainly connected with the matter of conscience troubling a number of Canadians who expressed their views either through the various Churches or outside of them. Those Canadians are anxious, just as I am, to modernize the divorce laws of our society, while complying, at the same time, with that basic requirement that the present government considers essential, namely the necessity of surrounding the family with maximum protection.

With regard to the problems of the first group we proceeded as follows. Starting from the fact that under the Canadian constitution, divorce and marriage fall clearly and squarely within the jurisdiction of the central government we decided against shirking our responsibilities and we drew up an act dealing with the divorce problem, attaching to the solution of that problem measures of a corollary nature, that is which cannot be separated from the effects of a broken marriage as such.

We did so, Mr. Chairman, respecting as much as possible the current traditions and laws in the various provinces. The province of Quebec is known to have, in the field of marriage, a certain number of laws contained mainly in the Civil Code and forming part of the traditions in that province; it was essential that they should be respected.

But it should be remembered that other provinces too have had for a very long time their practices and their courts which, in the field of divorce had adopted certain procedures to which we wanted to bring some

[Mr. Trudeau.]

degree of uniformity while bringing them up to date.

In regard to the second group of problems, dealing with those I have included under the heading of problems of conscience and problems often referred to by religious organizations and by the churches, we have done two things. We have introduced in our legislation which Parliament will have the opportunity to see in a moment, special sections requiring the Court and the lawyers themselves to seek to reconcile the parties.

And we have also introduced in our legislation the concept of "the marriage breakdown" which is a concept that the churches themselves, in their joint briefs, have recommended.

This means, Mr. Chairman, that in this bill, we are taking into account, not only of the social problems which had to be solved but of the spiritual and moral problems and of the constitutional and legal problems.

[*English*]

This bill, Mr. Chairman, represents an attempt to codify and extend the present laws of divorce applied in Canada along the lines recommended in the final report of the special joint committee on divorce dated June 27 last. That report contains some 21 recommendations respecting the subject of divorce and related matters. The bill adopts many of these recommendations, some of them in a modified form. In certain instances, the recommendations of the joint committee have not been adopted and with regard to other matters a somewhat different approach has been followed. We shall, of course, be considering these matters in more detail at later stages.

Speaking in more specific terms, I should say something about the grounds for divorce as contained in the bill. Hon. members will be aware that there has been a good deal of debate in recent times respecting the desirability of one comprehensive ground for divorce, namely marriage breakdown. My colleagues and I are aware that views to this effect are widely held by well-meaning people in this country, and indeed many of the Christian churches have advocated this approach.

While recognizing that this viewpoint has much to commend it, the bill has not been prepared on this basis, but retains the traditional marital offences as grounds for divorce, and includes as well a modified concept of marriage breakdown as a new ground for divorce. In so far as we are concerned