

*Divorce Acts*

likely to survive if a three year period of separation is required. In other words, we think one year is long enough. We think also that the procedure could be streamlined. That is addressed in this legislation. What is the necessity in an uncontested divorce of the court appearance and the court proceeding? Divorce does not have to be as expensive and as lengthy before the courts as it is.

We are pleased to see legislation brought forward that deals more directly, more humanely, in a more contemporary manner with the consequences of divorce and with the question of maintenance, to which I want to come back later in my remarks. We are glad to see that it is addressed and that there is a better rationale, more in keeping with the equality of spouses and more in keeping with the nature of a marriage nowadays. We are also happy that custody is addressed and the problem that now exists in the area of custody is being addressed somewhat in this legislation.

I would like to remind the House and the Government that all of these problems were known to the former Government and were the subject of the legislation brought forward by the former Government. I want to pay tribute to my former colleague, the Minister of Justice Mark MacGuigan, who brought forward a very good bill that addressed all of the issues addressed by this Bill, except for one or two matters that I hope to have time to deal with and offered the same solutions.

What is interesting is that when the former Government brought forward its Bill, we did not have an Opposition Party that said it was going to co-operate to improve the divorce law. The former Opposition, the present Government, laboured anxiously and met in caucus to discuss how it would deal with the Bill. The present Minister of Employment and Immigration (Miss MacDonald) announced what the Government's position on that legislation was.

The Tories were going to fight it, they were against it and even though it was exactly the same in all important respects as the legislation being brought forward now—I will deal with the differences—the Tories said, "After intense discussion, we have come to the conclusion that the existing divorce Bill,"—namely the one of the former Government—"is shallow, superficial, and simple." They were stuck with having characterized the divorce Bill brought forward by Justice Minister Macguigan as shallow, superficial, and simple. The Tories were stuck when September 4 came along with the problem of having to address divorce. They have agreed in what they have done that the matter is a priority but, not being able to do exactly what the former Government did, even though in substance the Tories have brought forward the same thing, they engaged in a search for a face-saving tactic to bring forward essentially the same legislation, allowing them to live with the remarks they made while in Opposition.

Let me say what I like about the Government Bill. What I like are the essential parts which copy exactly what was in the former legislation. I will then have to say what I do not like about it, which is the face-saving technique the Tories found to differentiate their Bill from the Liberal Bill. It is a face-saving

technique to which I would concede if it were not damaging, but it is damaging to the divorce Bill. It is a mistake to do what the Tories are proposing to do to differentiate their Bill. I am referring here to the very superficial frill the Tories have added on the subject of fault, Mr. Speaker.

Let me first go over the features of the Bill we welcome, that we think are overdue and should have been in effect for a year or more than a year had the Bill introduced by the former Government been passed and not fought so hard by the former Opposition.

We are moving away from a contentious type of divorce. The old requirement of a three-year separation for marriage breakdown made the other grounds more attractive and the parties tended to be driven into a situation where they were wanting to characterize themselves with one as the innocent party and one as the guilty party and so get a divorce on the basis of fault. We are glad the Bill follows its Liberal predecessor in moving away from the contentiousness that has characterized divorce in our country until today.

We are glad not only for its own sake but because it makes divorce a more dignified process that we recognize it is. In fact, this is a divorce procedure which encourages reconciliation more than the present procedure does. Like the Liberal Bill, there is an incentive and a requirement for attempted reconciliation during that one year of separation.

We do not believe, as the Government does not believe, that having tough divorce laws makes for stronger marriages. In other words, if it is hard to get a divorce, people will try for that reason to make their marriages work. We do not agree with that. People who are trying to make marriage work do not look over their shoulders at what the divorce law is. I cannot accept the argument of those who want tough divorce as a way of showing the sanctity of marriage or as a way of showing that spouses should work to make their marriages work. As long as they want to make their marriages work, they are not looking over their shoulders at what the divorce law is. When a marriage does break down, and the grounds are to be set out in the Bill—we accept them—divorce should be realistic. Divorce should be contemporary and above all, as is the tenor of the Bill before us, the divorce procedure should try to encourage reconciliation. Better than the existing law, this Bill tries to encourage reconciliation. I will not go into the details as they were placed on the record by the Minister in his statement yesterday.

● (1640)

We are glad that the Bill reduces the amount of legal process in court proceedings. This is a Bill which, like the Bill of the former Government, will not require that the spouses appear before a judge when there is no contention or no contest and when all matters are settled. Also, we are glad to see a modern philosophy of maintenance which is based upon a recognition of the equality of the spouses but which recognizes that, where one spouse is dependent, there is an obligation on the other spouse to assist the spouse in achieving economic independence if it is possible. If it is not possible, that is