

Private Bills—Divorce

in Ottawa the responsibility of making proper judicial decisions which we of necessity cannot make.

Mr. St. Laurent: The hon. gentleman has said that he wishes to remain strictly within the rules, but I am afraid that assertion of his desire is not in accordance with the amendment he has moved. The effect of the amendment is that the bill be not now read a second time but that it be resolved that in the opinion of this house consideration should be deferred until the house has had an opportunity to discuss alternative methods of dealing with this divorce application. But there is no alternative method. If it is a bill for divorce, the constitutional procedure is that it comes here from the other place, is given first and second readings, and is then referred to a committee to ascertain whether the facts upon which the prayer is based can be established to the satisfaction of that committee. I do not think there can be any alternative way of dealing with a private application to parliament for extraordinary relief in the form of a bill. It seems to me that the amendment is nothing but an enlarged negative which would deny second reading of the bill because what it suggests is something that can have no other practical result.

With respect to the other matter, I know the hon. gentleman is as anxious as I am to avoid religious controversies in this country. He has said he realizes there are religious denominations which do not admit of divorce. There are other denominations which do, and he says, I think quite properly, that the majority should not force upon the minority who do not believe in divorce the acceptance of divorce as a legal institution.

Mr. Coldwell: Or vice versa.

Mr. St. Laurent: On the other hand the larger minority should not force upon a smaller minority the position that there could never be any divorce at all. That is the position of my hon. friend, and I think generally hon. members will feel it is reasonable. In democratic institutions the majority must not disregard the honest views of the minority. It must try to accommodate itself to those views in matters that do not endanger the safety of the civil state. Likewise I think the larger minority must seek to accommodate itself to the honest views of the smaller minority, where it does not endanger the safety of the civil state.

As the hon. gentleman knows, this matter has been under consideration many times. A few years ago earnest consideration was given to a system under which there would be official examiners who, on applications for divorce based upon adultery, would

inquire into the facts and make reports. Then there might be one omnibus bill that would have as a schedule the reports of these examiners in all these cases, so the matter could be dealt with on one occasion and only one during each session. It seemed that might have something to recommend it, because it would not mean the establishment of divorce as a legal institution but would be merely another method of enabling persons to make application for special legislation to deal with their special cases. The only difference would be that instead of dealing with one application at a time, after all cases had been investigated the reports would be annexed as a schedule to an omnibus bill, and they would be dealt with at one time.

After consideration by the gentlemen of the other house, however, it was found that they would not be agreeable to this change. They felt that if they were going to take the responsibility of adopting the legislation they should satisfy themselves as to the facts. This house might very well take the same view and say it wanted to satisfy itself by firsthand examinations of the witnesses as to the propriety or otherwise of exercising special jurisdiction.

Because of the diverging views at that time, and because there was no other alternative but the one suggested by the hon. member for Winnipeg North Centre (Mr. Knowles), which means establishing divorce as a legal institution to which one has a right if he establishes certain conditions, it was felt that the old system, with all its inconveniences and all its annoyances, which had been working for a number of years and had not occasioned any serious religious controversies, setting up one section of the population against another section, was after all less harmful to continue than to try some other system.

I have never attended any of these hearings in the other place. However, I have been told by the gentlemen who have attended, and who have also attended hearings in the courts, that the proceedings in the other place compare very favourably with those in the courts of Canada where divorce jurisdiction is exercised. Perhaps it is not our normal function to deal with these matters, but it is no more disagreeable for us individually to deal with them than it is for the gentlemen who sit on the bench in our courts of law. It is unfortunate that human nature should be such that these cases do arise. If there were not the honest and conscientious conviction that in certain cases divorces were a good thing the solution would be to deny divorces. But there are some who have the

[Mr. Coldwell.]