

*Divorce Law Reform*

government has attempted to do by this measure. The first point we tried to solve was the idea that even before dealing with divorce we must deal with the problem of strengthening the institution of marriage. This was brought home to us with great force and wisdom by many churchmen who appeared before us. They emphasized that the marriage is the important thing and that divorce is only a remedy to an unsatisfactory situation. We realize that marriage itself is the important aspect of any law which purports to deal with marriage and divorce. It is for that reason we wrote into this law at practically every stage provisions for reconciliation. This is true in respect of our definition of condonation, in respect of the obligations put upon lawyers who have clients asking for opinions in divorce matters, and in respect of the courts which hear petitions for divorce at the inception of the case, and even after the decree nisi has been granted. At all these stages we have written reconciliation concepts or procedures into the law.

This is a very important aspect of our law. Admittedly it is a concept which did not exist in this form in previous divorce laws in this country. We realize further that this whole situation requires more than just the adoption of a law. It requires that the government study on a continuing basis the effects of this law on marriage and study ways and means whereby reconciliation can be improved and bettered. This will mean that we will not only have to carry out research in respect of the consequences of this law and the way it operates, but we will have to continue to consult with provincial authorities, private organizations and churches. This was the first point we tried to deal with in this measure.

The second thing we tried to do was weed out the legal impediments to remarriage in cases where a previous marriage had broken down. As one hon. member pointed out last night, the consequences of our archaic divorce law is that many thousands of people—I think the figure of 500,000 was mentioned last night and the Canadian Bar Association also came up with some large figure—are involved in common law relationship in this country. This is a situation contrary to the desires of even those who believe most in preserving marriage.

These are people who cannot remarry because the present divorce laws do not create a situation in which they can get a divorce, or because they are too sincere to go through the sham proceedings so often

[Mr. Trudeau.]

required to obtain a divorce under our present law. The remedy we envisage is first to preserve marriage and second to make better marriages possible by weeding out the legal impediments which now prevent remarriage and the formation of happy couples. This is because the bonds of former marriages have not been untied.

Although the idea of divorce is still repugnant to many people in this country—and I respect the reasons for which many people oppose the idea, as a matter of conscience, or religious or moral beliefs—when these reasons are applied to the legislative program of a country, it means imposing on a great majority the beliefs of perhaps a small minority.

• (8:50 p.m.)

As I said earlier, I think one of the fundamental tasks we must achieve in this parliament is to avoid mixing sacred and the profane. We must realize we are living in a pluralistic society, and even though some laws may be repugnant to the morals of individual members they must realize that we are all here to legislate not our own personal morals upon the country but to seek solutions to evils which arise in a civil society and which must be solved by civil or criminal laws.

I think this is what has guided us in our decision to reform these laws. This is a good opportunity for me to say that because of this I did not find it necessary to recommend that the vote on divorce laws be a free vote, in the sense that the expression is used in this house. I respect those hon. members who for moral reasons do not agree with the concept of divorce. I think those who believe that marriage is indissoluble, and it is a very worthy belief, are in the position of asking themselves nonetheless whether this law is necessary now to find a solution to a real social evil.

I think I have shown, and hon. members know from experience, that these evils arising from our unsatisfactory divorce laws are very present in this society. I should say, for the benefit of those people who have moral doubts, that this is merely a permissive law. It is a law that will permit the breaking of the marriage link but which obliges no one to remarry, if this is against his principles. This legislation is just dealing with the civil link; it is not dealing with moral beliefs. Indeed I think it is theologically acceptable, even to the most stringent of Christians, that if an annulment of marriage is obtained under