

Private Bills—Divorce

and man's clothing in the cupboards in the same room. I then told Mr. Golden we had seen enough, and we left.

Frankly, Mr. Chairman, I think they had seen everything. They even went through the cupboards in the house in order to meet the legal requirements for establishing that adultery had been committed. They invaded the privacy of a family and of a home. Just what did they see? They walked into the house and a man admitted that he was Mr. Martz. He admitted that he was living with this woman, but that is of no importance whatever. We are not interested in that. All we are interested in is establishing that on this particular day, at this particular time, adultery did take place. They looked around and they found some clothing in the cupboard, both men's and women's clothing. They found that both of these people were living there, something they knew before they went there. But they did not find them committing adultery.

Adultery is not something that happens over a period of a week, it happens in a specified period. Some proof must be presented that adultery did take place. I am suggesting that the witnesses did not even attempt to prove that adultery had been committed. This was not important at all. All they did was to find out who the corespondent was. This is absolutely necessary in order to meet the requirements of the law because in presenting a divorce bill we must give the proper name of the corespondent. Except when exceptional circumstances are involved it is impossible under our Canadian law to establish grounds for divorce without giving the name of the corespondent.

This is what has happened. We are confronted with a common law alliance. The implication is that adultery has taken place. In order to establish this fact the detectives in this case went into the house, examined the situation and talked to the man. He admitted the common law alliance, but he did not admit that adultery had taken place on this particular day. The committee is being asked to suppose that adultery did take place or could have taken place. I suggest it is not necessarily proved that the man was in the bedroom upstairs. The evidence does suggest that the lady was upstairs, but there is no proof that this man was not sleeping in the den. There is no proof that this man was not sleeping downstairs on this particular night. There is not even mention of the pillows in this case. Mention is made of the fact that a couple of cushions were involved rather than pillows. We do not even have the limited evidence given in other cases which does give a much clearer indication that adultery could have taken place.

[Mr. Peters.]

I should like to refer to this question of adultery. On another occasion I said that if a man admitted living at common law the divorce could not be granted on that ground. I was wrong and the lawyers in the house were right. What the judges and courts have discussed on previous occasions was the fact that an admission of adultery was serious, sometimes having criminal implications, and there was always a suspicion the man was doing so by pre-arrangement in order that the divorce could be granted. The common law alliance was not of too much importance, but adultery had to be committed—

The Deputy Chairman: Order; the hon. member is discussing the proceedings in a divorce case and not Bill No. SD-43.

Mr. Peters: Mr. Chairman, I think in this particular case we have before us a common law alliance which has implications of adultery. I am quite happy to see this divorce bill granted on the stipulation it is granted on the basis of a common law alliance, not adultery, because adultery has not been proven.

The Deputy Chairman: We can just discuss this bill and whether or not, according to the evidence, adultery has been committed. According to the judgment of the committee of the other place, it has been, and that is all we can discuss.

Mr. Peters: In this case, I would say we certainly have before us no evidence that adultery was committed on this particular day.

Mr. Lambert: Vote against the bill, then.

Mr. Peters: I might vote against it. We have not concluded our discussion of the matter as yet. There may be something said by members on the other side of the house that would change my mind. I admit I was partly wrong in my statement on a previous occasion. The chairman of the committee of the other place asked this question:

Q. Was anything said about them living together while you were there?

A. Mr. Martz told us that they were living in that house for about three years, but after further talk he said "We have been living together for nine years in different places but they had lived there for three years". In fact, last week I went up there and I checked again and the same woman was still living in the house with Mr. Martz. They were still living at the same address.

I believe the chairman of the committee of the other place was very concerned about this matter. This is not the normal, stereotyped question we find in other cases. It is rather a different type of question and shows his concern about these people living together, and what the arrangement was.