

Alimony and Maintenance

to be able to work together to bring about a settlement which will be good for the entire family. Thus divorce reform in the direction of no-fault divorce would be a considerable step toward getting maintenance payments actually paid on time.

I do not want to say that I am in agreement with all aspects of the proposals the Minister indicated in the case of divorce reform, but the general lines are certainly very good and healthy ones and would certainly be relevant to the subject before us this afternoon.

Before closing I would like to mention another loophole, that is the garnishment of wages of federal Public Servants. This was passed recently but, as we found out all too sadly, there were a number of loopholes. Members of Parliament, Senators and staff on the Hill were exempted, and it is not clear as to the coverage of judges. Thus I welcome the introduction of a Bill by the Minister of Justice today to close those loopholes. I will certainly support the amendments that he is proposing.

● (1610)

I wish to make a few comments on the remarks made by the previous speaker. They do reflect some complacency. This matter has been before us for a very long time and the Hon. Member said there was no instance of stonewalling. He wondered why this issue was raised, and we heard some remarks to the effect that there was a lack of purpose in aggressively pursuing constructive proposals to improve the enforcement of maintenance orders.

I suggest that if the Hon. Member is correct and it has simply taken some time to address this, and that the provincial Attorneys General and federal authorities are working on it, the test of the sincerity of the federal Government will be if it brings in its own legislation promptly which better meets the needs of families. It should be doing this very promptly.

A Government Bill on this issue is needed since a Private Member's Bill cannot address all of the matters that come before us. However, we cannot wait year after year for this is not the solution and many of the problems could be regulated very quickly. It is not necessary, for instance, to make a false issue of the problem of privacy. Therefore, the test of sincerity is new legislation. While the Divorce Act must be part of it, we must see follow-up measures to the proposals of the federal-provincial Committee on Maintenance and Custody. We must have the Government's response to these very concrete proposals which were made and we need legislation along those lines. Federal-provincial agreements are necessary, including dates and times, so that we can proceed with this promptly.

In closing I say that I certainly support the intent of this Bill. If the Government is going to talk it out, I would challenge it to be very clear in its indication as to what better legislation it will bring in in its place, and when.

Mr. Jim Schroder (Parliamentary Secretary to Minister of National Health and Welfare): Mr. Speaker, I am pleased to take part in this debate. I believe that the Hon. Member for Broadview-Greenwood (Ms. MacDonald) very clearly stated the reasons for this Bill. Its intent is laudable and the Hon.

Member for Capilano (Mr. Huntington) is again to be congratulated for giving us an opportunity to debate this Bill. However, I suggest that a Government Bill which gives strong legislation and achieves what everyone this afternoon has suggested should be the intent of such legislation will eventually be part of the Government's Bill.

Enforcement of maintenance and custody orders both prior to and upon divorce has traditionally been perceived as falling within the general rubric of property and civil rights; subjects which, as a matter of constitutional law, are determined by provincial Governments and legislatures. While Parliament, under constitutional authority for marriage and divorce, has passed laws governing the award of support and custody orders, both pending the divorce hearing and upon the granting of a decree, these orders once awarded are enforced by the courts within each Province. Section 15 of the Divorce Act is authority for this proposition and states as follows:

An order made under Section 10 or 11 by any court may be registered in any other superior court in Canada and may be enforced in like manner as an order of that superior court or in such other manner as is provided for by any rules of court or regulations made under Section 19.

As there have been no such regulations enacted by the Governor in Council pursuant to Section 19, the rules of court in each Province provide for the registration and enforcement of orders made under the Divorce Act. The role of the federal Government, as a result, remains largely a facilitative one, assisting in the enforcement of orders as far as it is able to do so with respect to matters within federal jurisdiction.

It has been estimated that approximately 75 per cent of maintenance orders in Canada are not enforced. This poses a considerable problem for financially dependent family members and creates disrespect for the administration of justice. In addition, because separated and divorced spouses are extremely mobile, difficulties arise with respect to enforcement of these orders across interprovincial boundaries. The federal Government has undertaken a review of a number of initiatives designed to improve the enforcement of maintenance orders in Canada.

One proposal which has been advanced is to amend the Divorce Act by adding a provision that specifically provides for garnishment orders. This proposal is rather akin to that set out in the Private Members' Bill. The Bill of the Hon. Member for Capilano suggests that the wages and salaries of Public Servants should be subject to garnishment. This is a proposition with which the Government has agreed for some time and it introduced legislation in Parliament in May, 1978 to meet the problem. On March 11 of this year, Part I of the Garnishment, Attachment and Pension Diversion Act came into force. This Act permits, under provincial law, the garnishment or attachment of wages of federal employees for the purpose of enforcing civil orders and judgments including maintenance orders. Part II of the Act, when in force, will permit the diversion of superannuation benefits of retired federal employees for the purpose of enforcing family support orders although not to satisfy ordinary debts.