

Divorce Act

We cannot always be sure the judicial interpretation will be as expected for these new measures. Despite our best intentions and those of the courts, it is important that we review and revise the changes in the law. For these reasons, my Party supports the built-in review mechanism which fulfils this need. It will also afford an opportunity for a Liberal Government to humanize divorce procedures.

Mr. Robinson: Don't hold your breath, Sheila.

Mrs. Finestone: I felt a great deal of regret yesterday when Mr. Speaker ruled Motions Nos. 11, 11A, 32B, 33 and 33A out of order on the grounds that they proposed to add concepts to the Bill which would expand the scope of the Bill beyond that on which the House had agreed in principle at second reading. I think the House had had time to address that issue. It was raised by my colleague, the Hon. Member for Burnaby (Mr. Robinson), very early on in our discussions.

I would like to explain a problem which involves the dissolution of a marriage under Jewish law, something which results from an act of free will by a man and a woman under the supervision of three rabbis. However, only the husband has the authority to give a Get. The refusal by a spouse to accord the Get is arising with alarming frequency. This has led to the Get being used in some cases as leverage to obtain financial and custodial considerations. It is of particular concern because without this religious Writ of Divorce, a person of Jewish faith is barred from remarriage under Jewish law.

I have attended committee meetings of the Canadian Jewish Congress and sub-committees which have addressed this issue. I am well aware of the role the B'nai B'rith League for Human Rights has had in this area. I know there was division within the community and I recognize the problem that was faced, but it could have been dealt with earlier. The Jewish community has now proposed a solution which was accepted by the Ontario Legislature in its recent family reform package. However, I am glad to learn from the Hon. Parliamentary Secretary that Justice officials are now considering that amendment. I can only hope that they will act quickly and that the proposals will be brought to the Standing Committee on Justice and Legal Affairs for expeditious consideration.

I am pleased to speak on behalf of my Party. I accept the fact that we have taken a very positive step forward. I simply wish it had been a more giant step.

[Translation]

Ms. Lynn McDonald (Broadview-Greenwood): Mr. Speaker, the bills now under consideration are an improvement over the previous bill introduced by the Liberal Government. However, there are still some deficiencies to correct, and very important ones. I am proud of the way that the NDP has fought to change the law to provide better protection for women and children, and especially to develop a better system to collect maintenance payments.

[English]

Unfortunately, the Government has refused some important amendments that would give much better protection to the homemaker spouse. The previous Bill would have permitted only fixed-term maintenance. Now indefinite maintenance is possible and I am very pleased by the very strong fight members of the NDP put up to see improved maintenance written into the legislation. However, the Conservative Government has refused amendments to permit reconsideration of maintenance orders when a judge might have guessed wrongly, the fixed term is up and the conditions have not changed.

Some changes have been made to deal with this unfortunate situation, but not enough. It remains that a woman who has been a homemaker-spouse for many years might not be able to get a job in the time a judge expected. How can she then return after her fixed-term maintenance is over with the argument that her circumstances have changed, something which the law requires, when her circumstances have not changed? She does not have a job and that is precisely the problem. We proposed an amendment which would have taken care of this situation. Unfortunately, while it was supported very broadly by the women's movement and urged by many women's organizations, it was not accepted by the Government.

We know the circumstances that divorced women face. On average, a year after a divorce, there is a 42 per cent increase in the standard of living for the husband but a 73 per cent decrease in the standard of living for the wife and children. This is unconscionable. While this low level of support is actually the case, the Government is not taking these facts of life seriously enough. The levels of maintenance are too low.

We proposed that very specific criteria be written into the law to ensure that there be some equality between the spouses after the divorce. In the case of a family that has lived together for many years and has had shared expectations of their standard of living, the wife at age 50 or 60 might indeed be able to get a job and become economically self-sufficient as the law requires. She may just be able to make ends meet, but having been in a marriage for 30 years, perhaps to a professional spouse, and having led a different kind of lifestyle, it seems very unfair that she should lose the standard of living to which she had become accustomed. Nowhere is it stated that equality of conditions should be made the object. They may be made the object by a judge, but that is not absolutely clear. When we consider the type of awards which are being made, and when we consider the decline in the standard of living, which is the result of court orders at the present time, we have to be worried, indeed. In fact, women are losing some of their negotiating power as a result of the one-year separation provision becoming grounds for divorce in most cases. So one might even worry that these awards could be lower still.

● (1700)

For those who might be worried about the problem concerning the husband not being able to pay adequate maintenance, and presumably there are some such cases—we expect they