

Divorce

We have accepted, as part of our way of life, the fact that the family is the basis of our civilization, religiously, economically, socially and in all respects. It is for this reason there has been, from time to time, an evident desire to retain the family unit and make it as difficult as is reasonable to dissolve marriages. In most cases involving disputes between citizens the state does not intervene unless perjury has been established or there has been an abuse of the court. However, in respect of the dissolution of marriages, since the time of the original procedure before the ecclesiastical courts in the United Kingdom, an officer of this nature has had some function. His function has been to see that the public interest in the maintenance of the institution of the family shall not be lightly destroyed. We have, therefore, had rules which provided that domicile must be established; that there should be no collusion; that there should be no connivance; that there should be no condonation and that only within the prescribed limits shall there be a dissolution of a marriage. If there should be any indication that there has been an abuse then the proctor, the Queen's proctor or the King's proctor, would have the right to intervene. Consequently I think that the duties of any such officer as is envisaged in this bill would be precisely the same, not merely to pursue the question of abuse of the perjury *per se* but to make sure that if this parliament is going to be involved in this particular issue, that the same rules will apply as are applied in the courts.

This is one particular aspect of it where I think we would be in difficulty. As the hon. member pointed out there are standing rules in the other place which I think have some relationship to the rules under which the courts have established their jurisdiction. On the other hand there are no rules in this house and theoretically any capricious, capricious or frivolous reason can be assigned for refusing the relief which has been asked. In other words I would think that, precedent to the establishment of this office, there must necessarily be a common set of rules under which the parliament of Canada will decide the basis on which dissolutions of marriages are going to be granted. Otherwise the result might be that the parliamentary proctor would be something in the nature of a parliamentary Perry Mason, sent out to pry into matters which may not go to the true issue which is involved.

While I am not against this principle, I think if it comes to the point where we must assume this responsibility we would have to consider it very carefully. I say that because, as I look ahead, I can see this government has a great future so far ahead as

the mind of man can see, and I would not like to see its rights to bring benefits to the economy of the country defeated by having to deal with these cases. Yet, as I say, should we have to, then I would like to see it attempted on proper principles.

Consequently I make this comment that while I favour this principle I think it should be founded only a basis of rules applicable to and approved by both houses, unless of course it should turn out that we do decide to assign the sole jurisdiction to deal with these cases to the other place. In any event there should be a firm understanding as to the basis on which dissolutions of marriages are granted so that an officer of this description would know precisely what are the limits of his authority, what are the rules on which these divorces might be granted, and if he is going to intervene he should know precisely why he is going to intervene and what he is going to do about it.

Since the bill has been brought forward for discussion I may be permitted to refer to the section which has already been the subject of the verbal caveat which Your Honour uttered. I would think that, the principle having been accepted, it is in the public interest that cases of this kind should be dealt with properly, that there should be no fraud and no abuses permitted, and that it should be at public cost that such an official should be paid.

Of course I recognize that it would be impossible for a private member to introduce such a provision. Even in its present form Your Honour must have some doubts, you must be *in dubitate* as to whether or not it could be properly passed by the house. But, if we do accept this principle, I would urge that it be in the public interest to see that marriages are only dissolved in a proper way and subject to the proper causes, and that the cost of an official of this nature and of the office should be borne by the public at large.

Mr. M. D. Morton (Davenport): I wish to direct my preliminary remarks to the point of order that has arisen. I am in agreement with the principle that there should be some person to supervise the matter of the conduct of granting of divorces through this parliament, or through whatever method may later be devised. That principle has been recognized by many of the provinces which have appointed similar officers to supervise divorce proceedings.

I think we are here trying to do something indirectly which cannot be done directly. It is quite true that the sanction to raise the money and the expenditure of money is not directed to the government as such. It is directed to the Speakers of both houses who would act to levy a form of taxation upon