

Divorce Law Reform

(Mr. Grégoire) wishes to adjourn the debate later on in the evening, of course the procedure of the House of Commons is here for that eventuality. Would the house agree now that I put the motion for second reading?

Some hon. Members: Agreed.

Hon. P.-E. Trudeau (Minister of Justice) moved the second reading of the bill.

He said: Well, Mr. Speaker, as I understand the arrangement I will be the one who will be getting the worst of the bargain. I will have to make the opening explanation in respect of the bill. I do not believe we will proceed very far in terms of settling the adoption of the bill. However, I think there may be something to be said for this procedure. Perhaps I can explain a little of the history behind the bill, and the spirit in which it was drafted. This in itself might give hon. members something about which to speak at a later date on second reading.

At this point I might give a little of the history of the divorce laws of this country. The western provinces of Canada are now, by and large, governed by the divorce laws of England, the laws of 1857 as later modified in 1870. In so far as Ontario is concerned, that province also, broadly speaking, is governed by the divorce laws of England of 1870 which were brought into effect by the federal legislation of 1930. In so far as the maritime provinces are concerned, they are largely governed by pre-confederation statutes and a mixture of such statutes with the common law of England ante-dating confederation. So, I believe it is fair to say that the most up to date laws governing divorce in Canada go back to 1870. Even if we consider the problem of the two provinces of Quebec and Newfoundland, which have a special status concerning divorce, they too are governed by the laws of that time.

Therefore, with laws dating back to 1870, in a society which has moved so quickly and so far in the intervening 97 years, it is not astonishing that the present divorce laws and the way in which they govern our society is highly unsatisfactory and indeed produces some very evil results. We all know, even though we may not have had a very close or direct experience with divorce, that people today who are faced with situations in which their marriages can no longer continue, are placed in a curious dilemma. In a great number of cases, either they do not get a divorce and live under common law arrangements, which are generally unsatisfactory and

irregular, or they go through a very hypocritical procedure of fabricating evidence and arranging proof for a divorce, which is also a hypocrisy and a sham. This is compounded by the fact that this parliament in one house, and later in the other, has over the years passed thousands of private divorce bills for at least two provinces in order to meet the situation. The people of Canada have realized that this kind of hypocrisy and sham is not satisfactory and that it is now up to this parliament to bring about a solution to this unacceptable social situation. Because of this, there has been mounting pressure from all areas for reform of divorce law. We have seen the continuing mounting pressure in many areas.

• (8:40 p.m.)

I think it would be proper at this point to underline the efforts of the many sections of the population—very laudable efforts indeed—to create the kind of public opinion in the country which permits us to tackle the problem properly.

Let me refer first to the joint committee of the Senate and the House of Commons under the very able joint chairmanship of two parliamentarians, and with the co-operation not only of many hon. members, but of many witnesses. This committee has prepared a remarkable report which has guided the government in drafting this measure. It has been very helpful to us in devising a solution.

I might also say that the press, members of the churches and the public at large have all been very helpful by their suggestions for reform. This proposed measure is not the sole product of one government, but rather the product of a social pressure which has been building up over the years to the point that this government had to seek a solution. We are now living in a social climate in which people are beginning to realize, perhaps for the first time in the history of this country, that we are not entitled to impose the concepts which belong to a sacred society upon a civil or profane society. The concepts of the civil society in which we live are pluralistic, and I think this parliament realizes that it would be a mistake for us to try to legislate into this society concepts which belong to a theological or sacred order. These are very important and sacred concepts no doubt, but they should not by themselves be considered as the sole guide for a government of a civil society.

Because of this it was necessary to find a remedy for these evils, and that is what this