

*Procedure Respecting Divorce*

Mr. BOURASSA: It was not a letter; it was a conversation which took place between the two parties, and which is related by the wife.

Mr. BELL (Hamilton): Then so much the worse.

Mr. BOURASSA: Quite so.

Mr. BELL (Hamilton): So much the worse for the man. If my hon. friend had chosen to read but one detached portion of the evidence he would have seen how on page 11 this woman pledges herself to the fact that there was no collusion between her and her husband to make this application for divorce. She takes that oath after all the circumstances were laid before the divorce committee, and after the divorce committee had been apprised of the fact that without any suggestion from her this man had walked out and left her flat to care for herself and her three little children. I would be very glad, if it were possible to do so, to leave this case to the judgment of my hon. friend from Lisgar, who checks up on these applications, or to my hon. friend from Winnipeg North Centre, who has interested himself in many of these applications, to say whether this chamber should not unhesitatingly endorse this application, because I am sure that of all the applications that have come before the house this session there is none more meritorious than this.

Section agreed to, on division.

Section 2 agreed to, on division.

Bill reported on division.

MARY MELVINA GUERIN

The house in committee on Bill No. 95, for the relief of Mary Melvina Guerin—Mr. Young (Toronto Northeast)—Mr. Johnston in the chair.

On section 1—Marriage dissolved.

Mr. BOURASSA: Mr. Chairman, on this bill I wish to direct the attention of the committee to two facts. First, the parties are Roman Catholics. They were married according to the rites of the church and to the laws of the country before a Roman Catholic priest. Some years ago a similar case came before the house. Thereupon most of the representatives from the province of Quebec pointed out that such a marriage could not be dissolved under the laws of their church and of their province. They opposed that bill both on moral grounds and on legal grounds. The same arguments that were then advanced by several members, including, I

[Mr. C. W. Bell.]

believe, the present Speaker of the house—I am not sure as to that—apply in this case. There are four children born of this marriage. Those children are Roman Catholics. If we grant this divorce we place those children with regard to their church, their social ties, and so forth, in the most awkward and obnoxious position. We do them an injury of which they cannot at present—they are all under age—measure the consequences.

Mr. WOODSWORTH: Would the hon. member pardon my interjecting? In the case of annulment, as granted occasionally in the province of Quebec, are not the children placed in a very awkward position, because they are then rendered illegitimate?

Mr. BOURASSA: I am glad my hon. friend has brought up the point, because it is one of the errors most generally propounded over the country. It has been repeated time and again in many, many newspaper articles and in speeches inside and outside this house. Both under the age-old law of the Roman Catholic church and under the written law of the province of Quebec, articles 163 and 164 of the civil code, every time a marriage is declared to be null—the Minister of Justice will correct me if I am wrong—if the so-called marriage was entered into in good faith by the two parties, even if one only was in good faith, the children are held to be legitimate. I am sure this will be confirmed by my hon. friend from Cartier (Mr. Jacobs), who is neither Catholic nor Protestant, but who knows the law.

Mr. JACOBS: I agree with the hon. gentleman, and as he notes, I can properly act as arbitrator for both denominations.

Mr. BOURASSA: They are held to be legitimate, not only morally and socially, but legally as well. In other words, although the marriage is annulled, or rather—because in these matters one has to be precise—although the marriage is declared to be non-existent, the children are held, for all intents and purposes whatsoever, to be legitimate. They inherit from their father or their mother just as legitimate children do. I know of no single instance in Lower Canada previous to confederation or in the province of Quebec since confederation where the slightest stigma has ever been attached to children born of such marriages, or rather of such unions declared by the tribunals or the church to be non-existent. I hope that will satisfy my hon. friend from Winnipeg North Centre so far as the state of law, and the state of mind also, in the province of Quebec are concerned.