

Private Bills—Divorce

dressed, and he said he was not dressed, but he had his stockings and shoes on. The evidence reads:

Q. You remember that?—A. I wasn't well dressed.

Q. Did you have your pants on?—A. Pyjama pants on.

The implication was that he was not fully dressed and that Mrs. Klasman was there and she was putting on her makeup. In my opinion the evidence that was given in this case is not the type of evidence that proves adultery. It does not even indicate that adultery took place. The woman herself testified very definitely that no adultery had taken place. Although Mr. Umblia testified that it had, he also admitted that he was drunk and on a number of occasions when cross-examined he said he did not remember. He also pointed out that on a number of occasions he drank very heavily on Saturday nights. A question was asked of him if he got drunk. On page 25 we find this:

Q. Do you often get drunk on Saturdays—A. Sometimes, if it is a party.

He did not say he just drank, but he said he got drunk. I submit his testimony is not the kind of testimony you would expect from somebody who would be involved in this kind of case. Mrs. Fournier's evidence does not appear to be what you would expect from a friend testifying against another friend. There is an implication that there might be some agreement between the parties concerned to get this divorce, particularly Mr. and Mrs. Fournier and Mr. Umblia. These people gave evidence because they were subpoenaed, but they gave the type of evidence you would not normally expect friends to give.

I think this is a case in which adultery has not been proven, has not even been intimated. The allegation of adultery is only borne out by one witness who implied it from the state of dress or undress and the condition of the apartment. The implication was that the two parties had spent the night and early morning in this apartment. I would suggest that this is a case where the adultery has not been proven, and I do not believe the divorce should be granted.

Mr. McCleave: Perhaps some of the remarks of the hon. member deserve an answer. I would first want to correct a statement he made, I know it was unintentional, to the effect that the second charge of adultery was not proven and was dropped by agreement. There was no attempt, after one initial attempt at introducing a letter, to prove the other act of adultery that was alleged in the petition and so it does not come before us.

[Mr. Peters.]

In this case there were no professional witnesses. The hon. member mentioned that two friends of the respondent came and gave testimony which was rather damning to her, and he expressed surprise that these people would come in and give evidence which he felt was not in keeping with friendship. I would suggest to the committee that this is a very dangerous point to make. If witnesses cannot be expected to come in to court or into the committee of the other place and tell the truth under oath, whether it hurts their friends or helps them, then the whole system of law would fall into disrepute.

In my opinion the strongest evidence of adultery in this case was contained in a statement brought out in cross-examination of Mrs. Fournier that Mrs. Klasman, the respondent in the case, had admitted that she had slept with Umblia and that she wished to have a baby by him. The other evidence was primarily that of the co-respondent himself.

As the hon. member properly pointed out, the statement that he did commit adultery was denied by the respondent. Perhaps the members of the committee will consider that these two statements cancel each other out. There is no evidence, in the first place, to show that Mrs. Fournier, and she was cross-examined thoroughly, had any unfriendly feelings towards Mrs. Klasman that would cause her to come before the Senate committee and tell the story she did. I think that is a very significant point that the committee must consider. We have the statement of an independent witness who finds the parties in an apartment in the early morning, one in a state of partial dress and the other one making up her face, which I understand is part of the lady's toilet in the morning and which was indicative of the fact she had spent the night there.

There is no attack on Mrs. Fournier as to why she should go before the committee of the other place and make these statements. I think that is perhaps the most important part of the case.

Mr. Peters: On the matter of the two allegations, at page 28 of the evidence before the divorce committee of the Senate we find the following:

The Chairman (Senator Croll): You have made two allegations in your pleadings, Mr. Hume.

Mr. Hume: I would move to amend the petition, Mr. Chairman, to strike out the second allegation. If we have proved one adultery, that is sufficient.

The Chairman (Senator Croll): You appreciate the difficulty in that respect. An allegation has been made and there is a record of that allegation. The person involved might be entirely innocent, and it