

*Divorce Act*

House agree that granting divorce on a no-fault basis is long overdue.

One can enumerate many reasons in favour of the Bill. Many Members on both sides of the House have dealt with some of its positive aspects. Making marriage breakdown the sole ground for divorce is a welcome aspect. It can help eliminate many of the problems which couples now face when going into court to obtain divorce in marriages which have obviously been broken down for some time. Now it will not become necessary for one of the partners to commit adultery or for other people to start lying and playing all sorts of games. With the present provisions it will become cleaner and more direct. Hopefully they will help create an atmosphere in which amicable settlements in terms of property, maintenance and child custody occur.

I would like to introduce two quotations if I may supporting the concept of no fault. The National Action Committee on the Status of Women in a brief to the Minister in October 1983 indicated:

Marriage must be recognized as an equal partnership entered into voluntarily by a woman and a man. Once one of the parties has decided that the partnership is not working, the relationship is clearly ended and no legal rule will make it work. That spouse should be able to declare that the marriage has broken down, and that declaration should be regarded as sufficient to prove the breakdown. Proof of separation or fault should not be required.

The other quotation to which I should like to refer is from a brief of The Catholic Women's League of Canada presented to the Minister in May 1983. In part it reads:

—the accusations and counter-accusations of the present adversarial system seem to do a great deal of harm to the familial relationship which oftentimes must survive the dissolution of a marriage because of children. Accordingly it is our submission that the best interests of all parties concerned, including children would be best served if the only ground for divorce were permanent breakdown of the marriage.

As I mentioned before, all Members of the House admit to the positive aspects of the Bill. What distresses us is that which the Bill does not address, considering how long it has taken in Canada to bring our divorce legislation into the 20th century or into modern reality. This is a rare opportunity for Parliament to deal with the question of divorce. The last time we dealt with it was in 1968, or almost 16 years ago. Perhaps the next time we will deal with it will be some 16 years down the road. We can only regret that in this rare opportunity the Government failed to deal with some of the more pressing problems confronting dozens of Canadians in marriages which are no longer functional and have broken down.

The major problems confronting Canadians involved in divorce are maintenance, and the court order in terms of financial and property settlement between the two parties. The Minister has indicated in the past, "I am sorry, this is not our responsibility; this is a provincial responsibility". In part he is right, but a contemporary law or an attempt by government to create a contemporary law would recognize that federal-provincial co-operation is needed, and that in order to bring the Divorce Act into the 20th century it will have to deal with the questions of property settlement and maintenance. Before introducing the Bill, the Government should have held meetings with the provinces to determine to what extent it could

obtain co-operation on these vital issues. It failed to do that. It failed to come to Parliament with a Bill which had the co-operation and blessings of provincial jurisdictions. It failed to bring forward a co-operative approach. A party who is responsible for maintenance payments can skip into another province and sort of disappear, very often leaving—in fact in most cases—a woman with dependants in the lurch with no real means of enforcing the court order.

The Government speaks about creating a central registry and being in contact with the provinces in an attempt to set up such a registry. It is a great move, but surely it is a little late. If that is an indication of where the Government is at, it is also an indication that reform in the Divorce Act will continue to be the slow and arduous process it has been in the past. That is just not good enough.

There are other aspects of the Bill which certainly displease us. The suggestion of time limitations on maintenance orders could certainly create much hardship in the future. It is a provision which would allow a maintenance order to expire and there would be no recourse to extend maintenance unless one of the parties went to court and asked for an extension. Another aspect which I find mischievous, and mischievous is the best way to describe it, is the notion of self-sufficiency. In terms of property settlements or maintenance orders, the court will encourage the notion that both parties become self-sufficient. Indeed theoretically this is an ideal solution. Neither of the two parties will be dependent upon each other and they can each go their merry way in life in a self-sufficient manner. However, that defies contemporary reality.

● (1730)

The reality for women in the work force is that the chance of getting a good job is very minimal, given the present economic situation. I do not think that the present economic situation will change radically in the next number of years.

The other reality is that in most cases, women have been the housekeepers. The woman has forgone and sacrificed her educational opportunities in order to raise a family and keep the home while the husband has secured his education, often supported by the wife's part-time job, and then secured himself a decent income. They are now in a divorce situation and the wife is expected at mid-age or in old-age to become self-sufficient and establish a career on her own while still being responsible for several youngsters in the home. This is not very realistic at all, Mr. Speaker. If this is an indication of the thinking of government lawyers and of the Minister, I am suggesting that they are still out of touch with contemporary reality.

There is the case of the older woman who is in her fifties or sixties and has been the homemaker and raised a family. Perhaps the husband or the wife has decided that their relationship is no longer a workable one. Very often in these situations the husband and wife decided to stay together in order to maintain a family home for the children. When the children have left the home and established their own careers, the husband and wife feel that their union is not in each