

Private Bills—Divorce

This woman has lived apart from her husband for 10 years. As the committee is well aware, the length of time that elapsed from the committing of the first act of adultery of which the wife had knowledge gives rise to the charge that undue delay took place in this case, and undue delay is an absolute bar to the granting of the divorce.

Mr. Mandziuk: May I ask the hon. member a question?

Mr. Peters: Yes.

Mr. Mandziuk: On what authority does he base the assertion that undue delay bars the petitioner from seeking a remedy in the courts?

The Deputy Chairman: Order. That question certainly is not relevant to this bill.

Mr. Peters: It seems, Mr. Chairman, that you have ruled that the question is not admissible anyway. Mr. Power has certainly pointed out that this is one of the absolute bars to the granting of a divorce. I only point this out as an indication that this case did not develop overnight. This was not a case of the husband entering into other arrangements over a short period of time and the wife instigating divorce proceedings immediately to seek relief from this situation. This situation carried on for a long time.

The evidence of the investigators appears to be the only thing in which many members are interested and I wish to deal now with their investigation of the so-called adultery. I think we are being unfair and unrealistic in a case of this kind when we ask that adultery be proved. That was my point in endorsing the argument the hon. member for Skeena made that a divorce can be granted on the basis of a common law arrangement.

But when one specific incident in that common law alliance has to be proved and there is not going to be reference to the fact that there is a common law alliance then we are going to have to be as specific in this case as if the husband had gone to a hotel and had been caught in adultery there with a woman. If that is not going to be proved then we should be willing to grant the divorce on the grounds of the husband having lived publicly and openly in a common law alliance. The investigator in this particular case was Mr. Peter Rosen. He is 38 years old and lives in Montreal.

Mr. Chambers: What has that got to do with it?

Mr. Peters: His occupation is investigator. The lawyer asked him these questions:

Q. I show you exhibit 2, a photograph. Can you tell me whose photograph that is?

A. Mr. Louis Martz.

Q. Did you have occasion to investigate Mr. Louis Martz's conduct around the first of September, 1958?

A. That's right.

This is nine years after the couple terminated the marriage, according to the information given by the petitioner.

Q. Will you tell the court what you discovered?

A. I investigated Mr. Martz's movements about a week prior to December 1, 1958, and found he was living at 10675 Gariepy street in Montreal North, and I found he was living there with a woman. On further investigation I found they had been living there for the last three years together.

What he is saying is that the couple made no secret of the fact that they were living in a common law alliance outside the bonds of normal matrimony, and while this is not an admission of adultery I suggest it is certainly an admission that one of the original partners to the marriage had terminated his connections and had begun a liaison with another woman which he intended to continue. I suggest that this in itself should warrant us in granting the divorce. The witness continued:

On December 1, 1958, my man, Mr. Golden, and myself drove up to Gariepy street at approximately 6.30 in the evening and we parked ourselves close by and we waited. About 7.30 that evening Mr. Martz drove up with his truck and he drove his truck into the back yard of the house and then he came out of the yard and into the house. We stayed there until about approximately 11.30 in the evening. Mr. Martz nor the lady in the house came out. At about 11.30 we noticed the lights went out downstairs and there were still some lights upstairs. It was a two-floor house. Shortly after that, about a quarter to twelve, all the lights were out upstairs. Mr. Golden and myself, we went up to the door and we rang the bell. It took a few minutes and a man—the light came on in the vestibule and a man came to the door and he opened the door. I asked to speak to Mr. Louis Martz and he said "That's me. What is it?" I said "We would like to speak to you" and he opened the door and we walked right into the house. I showed him the picture that I had, exhibit 2. I asked him if that was his picture and if he was Louis Martz, and he said yes. I said that we were acting on behalf of his wife and he said "What does she want? What is she bothering me for? I wish she wouldn't keep bothering me. I have been living here. I don't want to be bothered by anybody". I said "Well, we have to get the evidence against you. You are living here with a woman." He said "So what. We have been living together for nine years." I said "That's none of our affairs" and we made our way up the stairs to the second floor, which was a bedroom and a den, and there was a woman in the bedroom and she spoke to Mr. Martz and she said "What do they want?" and he said "It's my wife making trouble for me" and I said "There is no trouble. We just want to know what your name is and that's all". The woman and Mr. Martz discussed something between themselves for a minute or so and then she told us her name was Marie Titleman. There was no one else in the house. We looked around. The bedroom itself had a double bed with two dressers in the room and a couple of chairs and there was woman's