

laws of Canada. It may be true, indeed it is true, that the law regulates the number of divorces that take place each year in Canada, but it is not the law but rather social conditions that regulate and cause the number of marriage breakdowns which occur in our country. The role of the law is to deal with the social reality and the terrible cost in human pain and suffering which are involved in it.

As I will illustrate in the course of my remarks, it is the children more than any other single group who are the losers in marriage breakdown, in divorce. We would wish to have a law which would be so humanized that the children would suffer less than now is occurring under the law—as little, indeed, as our law can make possible.

Many people seem to have the idea that these proposals will make divorce easier to obtain in Canada. I categorically deny that interpretation, if by easier they mean quicker. This law, in fact, will make it slower, more difficult, for more than three-quarters of Canadians who now are obtaining divorces.

Statistics Canada tells us that in the years from 1969 to 1977, 75.8 per cent of divorce cases were completed through to decree absolute in less than 360 days, which is less than the period of one year which we are making the minimum possible for obtaining divorce under our amendments. In other words, three-quarters of the Canadians now obtaining divorces obtain them in less than the time we are proposing as the minimum time in this legislation. Because of the legislation, one-quarter of Canadians will be able to get their divorces more quickly but three-quarters will have to wait.

Mr. Lambert: No, you are wrong.

Mr. MacGuigan: The Hon. Member simply does not know the statistics.

Mr. Deputy Speaker: Order. For the sake of orderly debate the Minister should be allowed to make his comments now and replies will follow.

● (1250)

Mr. MacGuigan: I can tell Hon. Members that these statistics are available through Statistics Canada, and they refer to a considerable period of years. In case the Hon. Member is not aware of what is now happening in our courts, I can tell him that since this legislation was given first reading in the House I have spoken to groups of lawyers practising family law in many cities in Canada; in Toronto, Victoria, London, Windsor, Charlottetown and other centres. They showed massive support for this legislation because as lawyers they understand what is actually happening. I have heard of divorces being granted in five weeks, four weeks, three weeks, and in one case from the beginning of the divorce to decree absolute a total of only nine days. That is what the present law in Canada is bringing about.

We are going to require all of these people, without exception, to wait a minimum of a year. We believe that there has to be time for reconsideration and reconciliation. The law which we are proposing would encourage married couples to reflect on their decision to divorce. It would impose an obligation on

Divorce Act

those who counsel them to draw to their attention the mediatory facilities which exist. It would also change the law with respect to the reconciliation period so that there would no longer be only a single period of cohabitation for reconciliation during the running of the time for divorce. It would be possible to have any number of such periods of reconciliation up to a maximum of three months.

More important than even those points, Mr. Speaker, is our proposal to reduce the accusatory aspect of the divorce process to the absolute minimum. As Hon. Members know, the reason that most people who are now applying for divorces can get them in such a short time is that they are obtaining them on the basis of cause: adultery, physical cruelty, mental cruelty and so on. The legal necessity for alleging cause—and we fear sometimes even for fabricating cause—in order to obtain a divorce is a legal concept which imposes an atmosphere of confrontation on the parties. It can involve the children as pawns in the marriage breakup, and it can, as I am sure Hon. Members know, have the effect of having children called in on examinations for discovery to testify, for instance, that they saw their father beating their mother.

We already know, Mr. Speaker, as my earlier words indicated, that children in all divorces carry a sense of guilt that they were somehow unwittingly the cause of the marriage breakup. When the law adds to this natural psychological tendency by requiring there be accusation, and sometimes accusation piled on accusation and counter-accusation, it of course adds to the guilt that a child will feel, especially if the child has to testify to prove the existence of the cause of cruelty on which the divorce may be based.

There is a profound need, Mr. Speaker, for the humanization of our divorce system in Canada. That is the objective of the Government in this legislation. It is not to make divorce easier. In fact, it will not make divorce easier.

It will make divorce less expensive, I am happy to say, by the fact of enabling the provinces to adopt rules and procedures which will eliminate the making of the decree in open court. The expense of lawyers will diminish, it is our estimate, to a third or a half of the present billing. Therefore, there will certainly be a financial saving on the part of couples who are seeking divorce. It will, in addition to what I mentioned, make the process as healing and as mediating as I believe it is possible for the law to do.

Of course, in order for this to happen most effectively, as I will also indicate later, there are some other changes apart from the law of divorce which are also necessary, such as more facilities for mediation and conciliation in our country.

[Translation]

Before concluding this explanation of the Bill, Mr. Speaker, I would like to stress some of the proposed aspects of the reform which are more technical but none the less significant. The way things are now, three conditions are required before a petition for divorce can be filed before provincial courts: first, the petitioner must be a Canadian resident; second, one of the