

*Divorce Act*

"within a reasonable period of time, as determined by the responsibilities of each spouse for any child of the marriage, by the reasonable expectations of each spouse with respect to employment, and by economic conditions."

● (1600)

[English]

**Ms. Lynn McDonald** (for Mr. Robinson) moved:

Motion No. 13

That Bill C-47, be amended in Clause 15 by striking out lines 31 to 46 at page 11 and substituting the following therefor:

(7) an order made under this Section that provides for the support of a spouse shall be directed to one or more of the following objectives:

(a) subject to paragraphs (b), (c), and (d) to promote the economic self-sufficiency of each spouse within a reasonable period of time;

(b) to recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown and to relieve any economic hardship of the spouses arising from the marriage or its breakdown;

(c) where the marriage is of long duration and where one spouse worked full-time in the home and was financially dependent on the other spouse during the marriage, to provide support for the dependent spouse throughout his or her lifetime and to equalize the standards of living of the spouse awarded support and the supporting spouse;

(d) where there is a child of the marriage and the spouses had agreed before divorce proceedings were commenced, that one spouse should stay at home full-time to care for the child, to fulfill the terms of that agreement insofar as it is economically practicable.

[Translation]

**Ms. Lynn McDonald** (for Mr. Robinson) moved:

Motion No. 14

That Bill C-47, be amended in Clause 15 by striking out lines 42 and 43 at page 11 and substituting the following therefor:

"spouses arising from the marriage or its breakdown; and"

[English]

**Mrs. Finestone:** Mr. Speaker, I am pleased to see that the Speaker has grouped these amendments together because that is where they belong. We in Canadian society recognize equality as a concept, which I fully support. It infers shared rights and shared responsibilities, the need to move toward economic independence of all persons in our society, but nonetheless there are certain factors in the structure of a marriage that must be considered. When you enter into a marriage there are certain consequences on your economic independence. There are choices that a couple makes on the roles they will play within that marriage. Those are choices in today's society and I think we should keep them, but they do have economic impact and they do determine the economic independence of each spouse. Upon separation and divorce, these factors lead to economic readjustment and they need to be very carefully weighed.

The age of a spouse should be included as a criterion. Age should be a consideration before the courts in these deliberations. I suggest that time at both ends of the spectrum should be considered, not only the length of time of cohabitation, which should be a factor, but age of spouse as well should be indicated.

The older woman who has never worked outside of her home will need ongoing protection for an indefinite period of time under the law. The time limited orders for younger women could fail to recognize their potential for self-sufficiency. It is

not only based on the goodwill of the partner but it is dependent also on the external forces of the market-place and the economy.

Retraining and education may be required, which may take longer than anticipated. The sickness of a child may interrupt the length of retraining and education. These factors must be carefully considered.

I would strongly submit that a balance must be struck between the need to protect the older woman and the need to ensure that the younger woman has enough time for education and retraining, and has access to the market-place. It depends on the economy. There is also the need to allow the other spouse to get on with his or her life and to continue without a heavy financial burden if the potential for economic self-sufficiency is there. This way there is no injustice to either spouse. I think the key, Mr. Speaker, is to find balance with no injustice to either spouse.

Motion No. 12 recognizes, in Clause 15(5)(a), that a spouse may have subjugated his or her own earning capacity for the other spouse during the course of the marriage and thus would be dependent on the other spouse. This subclause would recognize the situation of those spouses and ensure that the courts take into consideration their dependent financial position during the marriage as well as after the marriage breakdown.

Men and women in the 40 to 49 year age group are four times more likely to divorce than younger people in the 18 to 29 year age group. In an American study, it was found and quoted by the Department of Justice in its fact book that women below the poverty line were less likely to have child support payments than those above the poverty line. Forty per cent of single women with children below the poverty line are awarded child support compared to 60 per cent of women above the poverty line.

The main purpose of adding age in this motion and that marriage be a condition of consideration is to provide a directive to the court that these factors be taken into consideration and not left as a discretionary factor to be considered by the court.

I am suggesting that we give clarity in our directions to the court and that the criteria of age and marriage are inclusive.

Let us try to be more clear and more concise. It is for that reason that I ask in the motion for the addition of those factors, and I ask for support for the motion.

**Ms. McDonald:** Mr. Speaker, I would like to address first the issue of Motion No. 12 and then spend a bit more time on our own Motion No. 13. I think the Hon. Member in proposing Motion No. 12 and dwelling on the issue of age is obviously getting at the crucial problem. I do not think her motion gets to it as well as the motion we have proposed.

Age is certainly a factor. It is particularly because of the situation of the older spouse, especially the homemaker spouse, that we have put forward Motion No. 13. Age is a matter which is more flexible, and it is the criterion itself that we have to go into not the fact of age. I do not think there is any particular age at which economic dependence happens, does