

Private Bills—Divorce

hon. gentlemen of the other place. We attempted to understand their problems in conducting the trial. They have a great number of them during the course of the year. They could see our point that if the records are incomplete it renders it difficult to reach a judicial decision on our part at this end of the hallway.

In another case we considered, the point of major concern was that of the inference that is to be drawn when certain parties are found together. The case that gave the committee of this house the most concern involved a man who appeared to be so intoxicated that he hardly knew what he was doing and there were grave doubts that he could do anything at all. We discussed the question of the inference that could be drawn from finding a man in such a condition even though he was found in the compromising position of being with a woman in a hotel room. There was a useful discussion on the law concerning the inference that is to be drawn from evidence.

Another point brought before hon. gentlemen of the other place on which we had the advantage of an exchange of views concerned the burden of evidence that must be produced by a party seeking relief in parliament from a marriage that has broken up. This particular case involved two parties where a husband and the wife of another man had misconducted themselves in a motel. About the only evidence that they had done so came from the mouths of these parties themselves. Our committee was concerned that there was no independent evidence to lend a little more veracity to their statement. The question of obtaining independent evidence in some of these cases was explored.

Another point we discussed with hon. gentlemen of the other place concerned the legal definition of connivance. One case involved a husband who had watched his wife enter a cabin by the beach with another man and while under ordinary circumstances this would undoubtedly constitute some form of connivance it was pointed out that here the husband had some ground for suspecting his wife over previous months and that in effect he was merely closing the trap that brought him the final evidence he needed for his divorce.

One very basic point that was raised in the discussions, and hon. gentlemen of the other place have agreed to consider it in examining their divorce rules, was the fact of domicile. As I pointed out some time ago, Mr. Chairman, years ago a person could not come before parliament by private petition if he or she had a remedy in some other way. If you construe this in reference to divorce practice a person should not come

before parliament and burden us with his problems if there is a remedy available in the provincial courts. As everybody knows there are only two provinces where such a remedy is not available in the courts and these are the provinces of Quebec and Newfoundland. It is interesting to point out that 342 of the 345 cases that came before us, properly came before us. Once in a while we encounter a case where it appears that the action should have been brought in Ontario or New Brunswick—those are the two provinces bordering on Quebec—or some other province where the husband might have acquired legal domicile. These cases give us a great deal of concern. We thought that the divorce committee of the other place might have relaxed the gate somewhat and let in some of the doubtful cases but we were informed that their practice is to look at the petition and if a doubt about domicile is raised they make it a rule to suggest to the party that he proceed in a provincial court.

This is done before the party expends the sum of money that is necessary for a parliamentary divorce which, as hon. members know, involves the filing of \$200 for the privilege of appearing in parliament and also involves other expenses ranging upwards of \$1,000 for the employing of lawyers and detectives. As I say, some of these cases—two of them, in fact—concerned the point of domicile. It was the first time that our committee had been aware of that particular practice that was carried out by the divorce committee in the other place to see that there was a proper screening. As a result, we came away a great deal happier on that point alone.

Finally, there are two points I wish to mention. Several times during the year we have had difficulty when we found out that there were prior legal proceedings which affected the marriage but which were not disclosed to parliament either in the petition or in the evidence that was taken in the other place. In some provinces it is the practice to require that such information be set forth in the petition. In other provinces it is apparently not the practice to do so. After considerable discussion the hon. gentlemen on the committee of the other place agreed that they would look into this matter and possibly amend the divorce rules so that the parties in Quebec would be perfectly sure of what they were required to disclose in bringing their petitions before parliament.

The final case in point concerned a case which was contested in the Senate but which was not contested on our side, in which there was some evidence by the wife that she had been beguiled into an affair with the correspondent on the suggestion of the husband,