

[Translation]

Mr. Evans: I ask, Mr. Speaker, that the remaining questions be allowed to stand.

Mr. Speaker: Shall the remaining questions be allowed to stand?

Some Hon. Members: Agreed.

GOVERNMENT ORDERS

[English]

DIVORCE ACT

MEASURE TO AMEND

The House resumed from Wednesday, April 4, consideration of the motion of Mr. MacGuigan that Bill C-10, an Act to amend the Divorce Act, be read the second time and referred to the Standing Committee on Justice and Legal Affairs.

Mr. Speaker: The Hon. Member for Surrey-White Rock-North Delta (Mr. Friesen).

Ms. McDonald: Mr. Speaker, I rise on a point of order. I am rising to make a comment and ask a question with regard to the speech of the previous Member. When we finished debate the last time, it came right to the hour and there was no time left for a ten-minute question and comment period.

Mr. Speaker: The Hon. Member for St. Catharines (Mr. Reid) was the previous speaker. The Hon. Member for Broadview-Greenwood (Ms. McDonald) is perfectly right, there was no provision at that time for a ten-minute question and comment period. The Hon. Member for Broadview-Greenwood has the floor.

Ms. McDonald: Mr. Speaker, I was very interested in the speech made by the Hon. Member for St. Catharines (Mr. Reid) and I appreciated his attention to the practical measures of providing means for collecting maintenance orders. However, I would like to ask him a question regarding a couple of other points. He said rather clearly and forcefully that he did not want to see no-fault principles applied to maintenance but that he wished the fault principle applied. Let me quote the Hon. Member's speech from page 2737 of *Hansard* of April 4, 1984:

It seems to me an abuse of the privileges of the court when we attempt now to tell it that there is no alternative for the court, no discretion for the court to dispose of these very material matters of maintenance orders with a consideration of right and wrong... to make them divide the assets between them and not take into consideration whose fault it was that the marriage is to be dissolved.

I would like to ask the Hon. Member to comment on how this can be done in any fair way. The publication of the Department of Justice called *Divorce Law in Canada*, Pro-

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posals for Change points out precisely this problem. It points out that where the faulty person is the dependent spouse, it is easy to make that person pay for the fault by reducing the maintenance order. However, if the faulty person is the breadwinner spouse, it does not mean that more money will go into the maintenance payments. In effect, with the rare exception of breadwinner spouses who happen to have a lot of money and can pay more maintenance, the only way to make this principle work for most people is by deducting maintenance in cases where the dependent spouse has been the so-called guilty partner. In other words, there is a double standard here and a principle which only applies to cause suffering to the dependent spouse. I wonder if the Hon. Member would comment on the fairness of that proposal.

Mr. Reid (St. Catharines): Mr. Speaker, I do not have any objection to answering the question. However, I thought the question was put earlier today and the Bill carried, or at least that the question was reserved for deferred vote. If it is the feeling of the Chair that I should respond, I will.

The position of this Party is clearly one of supporting no fault with respect to the dissolution of marriage. I do not believe in the philosophy of NDP members who try to put everything in a codified form or have everything divided equally without consideration of the many other aspects of a marital situation. I was suggesting that there was and should be a discretion in the hands of the judge who is trying the matter. Obviously, when we come to the matter of disposition of the assets of the estate, differences do apply to contributions or to whatever else.

● (1510)

For the people on my left, it might be said that everything should be divided equally. We got into that question a little bit with the task force on pensions and with some other legislation when considering the position of the legal wife compared to that of the common-law wife. I can see no justification for legislation providing that a common-law wife who has lived with someone for three years should be the recipient of all the benefits of the estate as well as the pension benefits, while the legal wife who stood by and raised a family is left with nought. That is just one simple example.

There is another example. If a woman should happen to have equal assets and to have made an equal contribution to the marriage, if she is the person who contributes her efforts to maintaining the social benefit of that marriage, then why should she be prejudiced in the division of the assets of the family? Why should she be limited to an equal division of the assets? If fault has any bearing on the case at all, it should be based on the financial aspect so that the innocent party is not hurt. I distinguish that completely from there being no fault in the dissolution of marriage.

The Acting Speaker (Mr. Herbert): If there are no further questions or comments I will recognize the Hon. Member for Surrey-White Rock-North Delta (Mr. Friesen) for debate.