

First, a husband or a wife may individually petition for divorce on the grounds of a breakdown of marriage. Second, a husband and/or wife may jointly petition for divorce on the same grounds of breakdown of marriage. That is all, no other grounds. No other grounds can be accepted by the court. We must, therefore, ask what constitutes a breakdown of a marriage.

Here a breakdown is established under clause 3 of the Bill if the husband and the wife assert, or if the husband and the wife have lived apart for one year or more. One of these provisions calls for an "or" and an "and". The other calls for two "ands", Mr. Speaker. Something is wrong with the drafting of this Bill. The nonsense and the double "and" provision lies in this: How can a woman, let us say, who is not in a no-fault situation but in a real fault situation, be it wife-beating or child-beating or some other child abuse situation, who has no other means of support except what is begrudged by her husband? How could such a woman live apart for a year, especially if child abuse is involved and she wants to protect the child and take that child out of the household during that period. It is pure nonsense to suggest you have to build a case for a breakdown of marriage by saying a husband and wife have to live apart for a year, completely disregarding the fact that one person who is trying to protect—perhaps herself, perhaps herself and a child—has no means of living apart.

How do we determine under clause 2(4) on page 2 the deeming provision? This is extraordinary wording. They shall be deemed, says the clause, to have lived separate, and here I would suggest that the word is "separately" and not "separate", Mr. Speaker. The word "separate" is more usually considered as an adjective. The word "separately" is the adverb. Let me continue they shall be deemed to have lived apart if for that period either of them had the intention to live apart. That is in the legislation. How is intention to be determined? Who is to determine intention?

But to return to the main theme, politically I agree. I mentioned this in my earlier intervention. It looks to me as though this Bill and several other Bills that are due to appear in the Standing Committee on Justice and Legal Affairs have been put forward by Ministers as political Bills, not with any real intention of solving social problems. One of the Bills, of course, is this Bill, one is the Security Bill, and the other one contains reforms to the Criminal Code. Those three Bills are presumably intended, all of them, to land in the Standing Committee on Justice and Legal Affairs between now and an election.

I suggest, with all due respect, Mr. Speaker, that these Bills have been brought forward by a Government which is seeking some means of saying "well, we had to do something" in order to indicate when we got into an election that it brought forward a Bill, the Opposition dragged its feet and did not put its back into the matter. Therefore, the Government can say "it is not our fault that these particular Bills could not become law."

The family unit in my mind is so important to the community that to play with it politically, as I have suggested this Bill

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does, is an insult to the Canadian people and to their beliefs. Bring in no-fault divorce if you must, but remember there are other causes for divorce. There is also a fault divorce. The guilty party, be it husband or wife, should have to pay under the law for having failed to live up the marriage vows and also to the vows taken during the baptism ceremony.

Miss MacDonald: Mr. Speaker, I would like to put a couple of questions to the Hon. Member for Esquimalt-Saanich. (Mr. Munro). One is on the question of fault. He mentioned that judges should determine according to fault. I understand him to mean with regard to maintenance. Would the Hon. Member clarify that? Is he suggesting in cases where there is fault that the economically dependent spouse should therefore get a lower maintenance order because of the fault, or similarly that a faulty provider spouse should pay a higher amount of maintenance on grounds of the fault?

Second, will the Hon. Member give a little more information as to what he would consider adequate by way of support provisions? The mechanisms for ensuring support payments are made in this Bill. Specifically, would the Hon. Member agree to equal splitting of all pensions in federal jurisdiction? Does he think this should be in the Bill? Would he agree that there should be access to all federal data sources, such as income tax and unemployment insurance for the location of defaulters of court order maintenance and interception of any funds under federal jurisdiction, such as unemployment insurance or pensions for the payment of court order maintenance?

Mr. Munro (Esquimalt-Saanich): Mr. Speaker, in reply to the first question asked by the Hon. Member having to do with a higher payment situation, I had thought I had made it quite clear in my comments that fault has got to play a role. If there is a fault that can be determined and assessed, obviously the person who is at fault ought to pay more than if there was a general agreement in a no-fault situation, particularly when there are children involved.

● (1720)

As to the splitting of resources, I do not know whether the Bill makes adequate provision for the judge to determine the role of the two spouses in the accumulation of savings and assets of a particular marriage and how they can be divided. I do not think the law as now drafted really takes that into account. Actually the judge is barred from looking at fault, as I understand the Bill. While I agree that the greater the fault the greater the settlement, I do not think the Bill makes any provision for that, and I think it ought to.

Mr. Simon de Jong (Regina East): Mr. Speaker, in participating in the debate on Bill C-10 one could start off by labelling it as creeping progressivism. It is creeping because the divorce proposals in Bill C-10 were really recommended by both the Anglican and the United churches in 1968. I know in the New Democratic Party we have a resolution on record from the 1967 federal convention urging that divorce be granted on a no-fault basis. The Bill gives the appearance of being progressive. Most Canadians and most Members of the