

*Dissolution of Marriage*

minor. You cannot enter into most contracts if you are too young. But if you enter into a contract of marriage, then the law says that except in certain circumstances we will disregard, you cannot make a mistake. Coming back to the point of A. P. Herbert, M.P., he was a great reformer and finally brought about reform in this subject in 1937 in England when the grounds for divorce were extended in the way mentioned by my hon. friend in the corner of the chamber.

Now I should like to mention something else, as I was rather enthused by an argument which was presented by one of the Social Credit members the other day who said that probably the place to start reform or to get it started was by amending the B.N.A. Act in its application to divorce and make divorce a provincial responsibility. That might be the place to start. I do not know. But in respect to jurisdiction, there is no question as to what the jurisdiction is. I am pleased to read from a book of an old friend of mine from Calgary. I refer to no other than W. Kent Power, Q.C., who has now passed on but who was a very distinguished member of the law society of Alberta and whose book has been used as a reference in all jurisdictions in Canada. It is known as "The Law of Divorce in Canada". He was a top constitutional lawyer and in his opening chapter he says this:

Only the dominion parliament can legislate in relation to the substantive law of divorce. Exclusive jurisdiction over the subject was assigned to parliament by the British North America Act, 1867, sec. 91 (26)—"Marriage and Divorce." Therefore, no provincial legislature or delegate thereof can enact a divorce law where, as in Quebec, none exists, or interfere with the substantive provisions of the law now in force,—

Then he goes on to point out in this chapter, and I have not time in which to read it all, that the law existing in Britain at the time of confederation became the law of some provinces in various fields. For example, we adopted the divorce law, the Matrimonial Causes Act of Great Britain, in Saskatchewan and Alberta when we came into confederation in 1905; and I think the law of England, the Matrimonial Causes Act, is substantially the same law that exists today in Canada, except the act in reference to domicile.

Let us now take a look at the points I have raised. We need reform to extend the grounds for divorce. I am one of those who believe that divorce, if it is right at all in Canada, should be based on grounds other than adultery. I think it should be based on grounds of desertion for one year or two years or maybe longer and also on the grounds of physical and mental cruelty. I

[Mr. Woolliams.]

think it should also be based on the grounds that one of the spouses is confined to prison for life or for a longer period of time; and there may be some other grounds including insanity. However, I add this, that I think everybody agrees that the home is the foundation of society. Our Canadian homes are the foundation of Canadian society. In order to create in the minds of young people and other people who are going to get married, a little bit of caution, if we are going to extend these grounds, then we should make certain it is written in the law that no one can come before the courts or any other jurisdiction that has the right to grant a divorce until five years or three years after the marriage. Five years may be too long. Three years may be just the right time. Some have recommended three years and some have said five years. In Britain I believe there is that waiting period.

I also think there are some religious groups and churches which lay the foundation and help young people—and particularly young people—in coming to the right decisions on marriage, and which set up we might almost say marriage clinics based on the ecclesiastical law and the law that we understand, namely God's law. I think it is commendable that churches hold such premarriage clinics. Let us reorient our thinking a little bit for our purpose, first to keep our families together; and all of us wish to keep our families together. If people getting married are given some encouragement in this regard and some education in this field, we prevent people from making wrong marriages; we place the emphasis there at first and then we relieve those people who have made an honest mistake. I go along with the hon. member in that regard.

What about other matters than grounds? I wish to deal with jurisdiction. When I am dealing with that matter I wish to say that there is no question that Mr. Power, who used to speak at service clubs and other places in western Canada and place his argument with force before Canadians, stated that there are thousands of families living in the state of adultery in Canada or at least the parties were not legally married. In fact last year a man from a very respectable family whose people had been in public life—I am not going to mention this person's name—was charged with bigamy. Few people realize that when they go down to the United States and get one of those United States divorces, those divorces in some cases unless that male spouse is domiciled in the United States are illegal. It is true that parliament attempted to relieve this situation some time ago and that the wife can now take action two years after