

Private Bills—Divorce

and he was living some place else again. But to me there seems to be a contradiction. I will grant you it may not be a serious contradiction but at least it is one that should have been tidied up before this bill was passed.

An hon. Member: Surely you can do it anywhere.

Mr. Martin (Timmins): Maybe the hon. member has more experience than I have in that line.

Then we come to the matter which is the basis for the divorce being granted, namely the proof of adultery. If we look again at page 5 which contains the petition, article 7 thereof which states as follows:

7. That on or about June 18, 1959, at 5175 Charles Roi, city of Montreal, district of Montreal, in the province of Quebec, the said... committed adultery with... who resides at 7100 Querbes, apt. 3, city of Montreal, district of Montreal, in the province of Quebec.

But then when we turn again to page 12 we find his question: This is a question by the attorney Mr. Cohen. I would submit that it is not a question at all but rather a statement supposedly placed in the form of a question. The question reads as follows:

Q. Since the date of the adultery on the 18th of June, 1959, have you ever had sexual relations with your wife?

A. No.

I submit that is not a proper question. That is a statement rather than a question. If it can be classified as a question at all, it is certainly a very leading one. Then on the same page we find the following question. This again is a question by the attorney to the plaintiff in this case. The question reads as follows:

Q. Was there any conversation between you and your wife at that time? Did your wife tell you anything at that time?

A. Nothing. I just said that I had come to visit her and wanted to know where she was living.

Then further down on the page we find the following question:

Q. Did your wife... admit living as man and wife with...? Did she admit living with him and having sexual relations with him?

A. No.

Hence it is conclusive that, on both statements contained in the question by the same attorney, the allegation had no basis in fact, at least at that time. This, of course, is supposed to be the day on which the offence was committed. Also at least a shadow of doubt is cast on the statement in article 7 contained in the petition.

Now let me turn to something else, Mr. Chairman. If we look at page 12 we see the question I read a moment ago:

Q. ...Did your wife tell you anything at that time?

A. Nothing. I just said that I had come to visit her and wanted to know where she was living.

Then on page 13 we find this question by one of the hon. senators:

Q. What did you say to her?

A. I said I had come to visit her. She had a child of her own before our marriage, and we had looked after him.

Then the same senator asked:

Q. When you went to this house where she was living in 1959, give us the conversation you had when she opened the door.

A. When she opened the door she said "Oh Donald." I said "Hello", that I had come to see her. I did not stay too long. I stepped in the doorway for a while, and she introduced this fellow.

Then on page 14 the solicitor jogs his memory a little. He asks:

Q. May I refresh your mind? When you came to my office did you not tell me that your wife said she wanted to marry—

—the respondent, and the answer is yes. The same senator had questioned this matter closely on the previous page because it apparently bothered him. He then asked:

Q. I already asked you about the conversation. It seems difficult to get it.

A. It is over a year since I went there. I went there for one purpose to see how she was living. When I went there this man was sitting there with her—

And so on. It seems to me that this a pretty loosely knit case. I think it is one that certainly could stand much closer scrutiny and I submit that evidence of this kind would never pass any court. I am sure the hon. members of this house who are lawyers would never permit testimony of this kind to go unchallenged. I think this committee should study this matter a little more closely before this bill is passed.

Clause agreed to.

Preamble agreed to.

Title agreed to.

Bill reported, read the third time and passed.

MARY NISBET CLEMENTS

The house in committee on bill No. SD-32, for the relief of Mary Nisbet Clements—Mr. McCleave—Mr. Rea in the chair.

On clause 1—*Marriage dissolved.*

Mr. Peters: Mr. Chairman, this case appears to me to be one granted by the Senate committee on the ground of desertion. I believe the hon. senators are perfectly within their rights in saying that adultery does not have to be proven and that desertion is a good cause for divorce; that they can grant divorce on the ground of desertion if they wish. But I am surprised in reading this particular bill