There are some who ask about the situation in which the woman is pregnant as a result of adultery. They ask if she should not be able to get out of her marriage even more quickly than the one-year period provided by the Act. Fortunately, in Canada today, the stigma of illegitimacy has disappeared. That is a concern, but we should weigh the pros and cons involved in retaining the grounds of fault. Despite that concern, which I do recognize, I feel that on balance it is not wise to retain the grounds in these circumstances.

I think it is also important to note very clearly that when we are dealing with a Divorce Act, we are dealing with marriages which have broken down and with relationships which have failed. Those who argue that by easing the pain and suffering involved in these circumstances we are somehow facilitating divorce are flying in the face of the reality of these relationships. Of course we want to do everything in our power to strengthen marriages and the role of the family in our society. However, where relationships have broken down, we should not be perpetrating measures which simply add to the pain, suffering and hardship involved in what is already a very difficult situation.

We should be supporting families through economic means. There should be better provision of child care, improved family allowances, shelters for battered women and economic equality for women. We should be ensuring that people in our society are better prepared for marriage itself. There should be more provision for pre-marital counselling in our communities and there should be better marriage preparation.

At this point, I would like to pay tribute to those church and other organizations that do engage in pre-marital counselling. In my own constituency of Burnaby, the Burnaby Christian Fellowship in conjunction with a number of other churches has embarked upon an excellent program of pre-marital counselling as well as counselling for those couples whose marriages have run into difficulty. The objective there is to attempt to salvage the marriage. But there is the recognition where that marriage has broken down, that the relationship should not be aggravated and the hardship which is faced by children should not be aggravated by forcing couples into the courts to point fingers with respect to allegations of wrongdoings by one party or the other.

• (1710)

In addition to strengthening marital relationships and ensuring that adequate funds are available for premarital counselling programs, we should do everything in our power to promote mediation and counselling at the point at which couples feel their relationship has begun to flounder. Unfortunately, it is still the case in too many provinces that the resources which are made available for mediation and counselling are totally inadequate. In the Divorce Act there exists a legal requirement for lawyers to point out to couples which are contemplating divorce any resources which might exist in their communities for mediation and counselling. Yet, as is too often the case, that obligation in the Divorce Act is a mere formality. In many communities there are inadequate resources for mediation and counselling. While there should continue to be an obligation on members of the legal profession to advise on the services which are available, as well, federal funding should be made available to ensure that those services are, in fact, a reality. Once again, hopefully, marriages can be salvaged rather than proceeding to divorce.

In too many cases it is the children who are the real victims. They are helpless victims in a divorce. The pain and scars which children too often feel can last for many, many years. I would hope that one of our most important and fundamental objectives in the area of divorce would be to ease the pain which is felt by children. One of the most important ways of doing that is to ensure that the Divorce Act does not, in effect, represent a tug of war between two parents over their children, but rather, recognizing that it is the best interests of the children, which should be the only relevant factor, that wherever possible those interests should be promoted through the use of joint custody. Instead of assigning custody of the children to one parent or to the other, we should recognize that while it is not possible for the spouses to continue living together, their love for and responsibilities to their children continue and, wherever possible, custody should be joint. That is the norm in a number of other jurisdictions, including a number of American jurisdictions. For example, California's Civil Code has been amended to declare that while custody should be awarded according to the best interests of the child, the first priority is to award custody to both parents jointly. The California Civil Code further states that the custody orders should encourage frequent and continuing contact with the noncustodial parent, and shall not prefer a parent as custodian because of that parent's sex.

There is still a perception in Canada today that mothers should be granted custody on a preferential basis. There are too many fathers who are denied custody in the courts who would be willing, able and, indeed, anxious to share in the custody of their children through a joint custody provision. That could only be in the best interests of the children. I would note, as well, that the former legislation did make provision for the appointment of a child advocate, a lawyer to act on behalf of the child where the interests of the child could be represented independently in the court room. That was a good provision and it is one which should be included in this legislation.

In addition, the Bill is not clear about the possibility of awarding custody or access to persons other than parents. The previous legislation made it clear that in those rare circumstances in which a parent was not the appropriate person to whom custody should be awarded, that another individual could be granted custody, for example, a grandparent, an aunt or an uncle who had looked after the children. I would suggest that the Bill should be made more explicit to make it clear that that is a possibility under this legislation.

With respect to procedure, in Canada today, 95 per cent of divorces are uncontested, but it is still necessary for the individuals in question to go through the ritual of court proceedings. In many cases, it is an expensive revolving door. It is a mere formality. We welcome the provisions in the Bill