

Divorce Bills

By Senator Cameron:

Q. Are your children with your wife? A. Yes, I thought it best to allow her to have their custody.

By the Chairman:

Q. Your wife has had custody of the children all the time? A. Yes.

Q. You entered into a definite agreement with her about that, did you? A. No, we discussed this until finally my lawyer drew up an agreement.

Q. That agreement has been signed, has it? A. Yes, on November 30.

Q. That agreement gives her what? A. Custody of the children.

Q. Do you pay her any money? A. No, sir. In the past I have been paying, though.

Q. But there is nothing in the agreement requiring you to pay her any maintenance? A. In the future, no sir.

Q. You have no monetary responsibility so far as the agreement is concerned? A. In the future, no.

Q. How long have you been separated now? A. I moved downstairs in September, 1961.

Q. Do you go to see the children at all? A. I occasionally drop up in the evening. My mother owns the property, it is three flats.

Q. They are still living on your mother's property? A. Yes, on the top floor.

Q. How old are the children? A. My oldest boy is 14, the next one is 12, and my daughter is 10.

Q. Are they all going to school? A. Yes.

Q. They are being satisfactorily schooled? A. Yes.

Q. Properly clothed and looked after? A. Yes.

By Mr. Gomery:

Q. Do you know what plans are to be made in the future concerning your children? A. Just the fact that my wife wants to marry another man and he has promised to bring the children up properly and they will be schooled and well taken care of.

It is apparent from this evidence that the matter of the custody of these children has not been settled. While it has been argued on occasion that there are certain matters which enter into provincial jurisdiction, I think that because this matter comes under a section of the British North America Act which establishes in parliament the responsibility for marriage and divorce, by implication we are responsible for looking after the children of the marriage.

When somebody petitions parliament he should at least be prepared to say what he is going to do in relation to the issue of the marriage. I believe that the issue of the marriage is a part of and cannot be divided from the original marriage. The issue is part of the marriage, and I believe there is no hon. member in the committee this afternoon who would not agree that one of our major concerns in granting this petition is the side effects and the results it will have on those being affected by this particular bill. It is evident that the corespondent in most of these cases has a direct interest in the future of the arrangements set out in the petition or in the evidence. In many cases, if the petition is granted he or she will marry the defending party in the case. In other cases, of course, they say they have nothing to do with the affair at all and that their names

[Mr. Peters.]

were improperly used. We have set up machinery in the other place to consider these matters. The position of the innocent party in the proceedings is discussed as is the position of other people who may be involved. In these circumstances I think no one would disagree that before these petitions can be granted parliament should be satisfied that a suitable arrangement has been made for the protection of the children concerned in these cases.

The father in the case now before us has indicated that the second man involved, the corespondent, has agreed to accept the children as his own and to provide support for them. I suggest this is an unrealistic way of looking at the situation. Certainly, he should have some responsibility for the care of the children. However, I do not believe we have any direct relationship with the corespondent in this case. We are not at liberty to determine whether he has agreed to accept these responsibilities. We are dealing with what normally would be called hearsay evidence. This is not, in my opinion, the type of arrangement of which we should approve. This is one of the problems with which we have been faced during the past two or three years, and I believe it would be better if, in fairness to all the parties concerned in the case before us, there were an arrangement which would satisfy the house as to the probability of the children being cared for, educated and given sustenance in their formative years.

There is another matter with which I am concerned in relation to this petition, and it is the possibility that the citizenship of these children may be changed. The adultery alleged is supposed to have been committed with one Arthur Dewing of Stamford in Connecticut, which is one of the states of the United States. It may be that we are not even protecting the birthright of these children, their right to remain Canadians, because they are under age and if they are accepted by a foster father they may even lose their right to be Canadian citizens. I believe no one in Canada would want a decision of this type to be made for these children with no protection from the court which is granting the separation.

Mrs. Fairclough: I do not wish to get into the debate but I should like to set the hon. member's mind at rest in that regard. If these children were born in Canada they are Canadian citizens.

Mr. Peters: I thank the minister for that information. I was aware that they could carry their Canadian citizenship. I am only suggesting that their foster father, as a citizen of the United States, would no doubt exercise a great deal of influence on the children