

Divorce Act

I take it that possibly answers the question of the Hon. Member. I take it she now wants to make representations with respect to Motion No. 3.

Mrs. Finestone: Mr. Speaker, in essence what we are saying is that this is a change in terminology. It is not a change in substance. It is not a change in any of the matters which I think would place it outside of the consideration of the law. I am suggesting that the words I have presented to you are words which have been used elsewhere in the Act and that I am not derogating, abridging or taking out words which are presently in the Act, such as the words "custody" and "access". I am suggesting a side bar effect. I think it is a shame that these words, which are humanizing words, have disallowed me the right to argue in the interests of fathers, grandparents, and of parents. I would have appreciated the opportunity to have argued in the—

Mr. Speaker: Order, please. I would like to make a distinction for the Hon. Member so that we do not become confused. The Hon. Member is now entering into the merits of the argument she wishes to put if the motion is ruled admissible. I know she does not mean to do that. I take it she is now making a procedural argument to the effect that there is not a substantive amendment to the interpretation clause. If that is her argument, I am prepared to consider it.

I will now hear from the Hon. Member for York South-Weston (Mr. Nunziata) on Motion No. 2. I hope he will also have something to say with respect to Motion No. 16.

Mr. Nunziata: Yes, Mr. Speaker. I will address Motion No. 16.

As I understand the procedure, Your Honour has indicated a preliminary opinion with respect to the admissibility of some of the motions. Your Honour has yet to render his final decision. In effect, by so doing, Your Honour has invited Hon. Members to present arguments with respect to either the admissibility or inadmissibility of all the motions which appear on the Order Paper and which the Opposition intends to raise. It is my respectful submission that in order for members of the Opposition to effectively deal with Your Honour's preliminary ruling, we must have sufficient time in order to prepare argument for—

● (1640)

Mr. Speaker: Order, please. Does the Hon. Member wish to make a procedural argument with regard to Motion No. 3 or does he wish to make a submission? If he wishes to make a representation about procedure, he can do that somewhere else. The Hon. Member may not know it but the Chair has every authority and right—in fact he has an obligation—to come in here at three o'clock and tell the House which matters are in fact in order and which are not.

It has been my practice to try to develop a courtesy in consulting to the degree possible. Therefore, it is precisely the issue of what is the representation the Hon. Member wishes to

make which we are now hearing. I, therefore, suggest that he restrict his comments to the procedural argument.

Mr. Nunziata: Well, as I understood it, Mr. Speaker, you had not rendered a final ruling with respect to admissibility, but you appear by what you have stated, I take it, to—

Mr. Speaker: Please. I have invited the Hon. Member to make procedural argument about Motion No. 3. If he wishes to make an argument about the procedure of the decisions of the Speaker, that is for another time and place.

Mr. Nunziata: Mr. Speaker, I am being asked—and I will, because I am being asked at this point—to make argument on the spot as to the admissibility of Motion No. 2, and I intend to do that.

Mr. Gauthier: No, Motion No. 3.

Mr. Nunziata: Motion No. 2, first. You have indicated, Mr. Speaker, in your preliminary decision, which I have before me, entitled "Draft No. 3"—I take it I am referring to the correct document—that Motions Nos. 2 and 3 give to the Chair some procedural difficulty and that they appear to make a substantive amendment to the interpretation clause, which cannot be done. In this regard, I refer the Chair to a decision made by one of its predecessors on May 21, 1970. It reads in part: "Amendments of a substantive or declaratory nature should not be proposed to an interpretation clause".

I take it from what I have before me, Mr. Speaker, that you are ruling this particular section or motion—

An Hon. Member: No.

Mr. Speaker: I invite the Hon. Member to come immediately to a procedural argument on a motion and not to pursue what appears to be a further discussion about the procedures of the consultation. The Hon. Member is—

Mr. Nunziata: I am addressing the merits of the—

Mr. Speaker: Soon, please.

Mr. Nunziata: All right. The question becomes, what is substantive and what is declaratory because one is relying on the fact that the amendment put in Motion No. 2 is either substantive or declaratory. It would be my submission that it is not a substantive amendment to the interpretation clause.

What Motion No. 2, which was moved by the Hon. Member for Mount Royal (Mrs. Finestone), does is attempt to amend the definition of the "child of a marriage". The child of a marriage is defined in Clause 2 of Bill C-47 as follows:

"child of the marriage" means a child of two spouses or former spouses who, at the material time,

(a) is under the age of sixteen years, or

(b) is sixteen years of age or over and under their charge but unable, by reason of illness, disability or other cause, to withdraw from their charge or to provide himself with necessaries of life;