

after the marriage had occurred. I say it related back to the time antecedent to her cohabitation with Fralick. You are asked by the petition to declare that this marriage is null and void. It was the intention of the committee to report to the House that it was desirable to pass the Bill in that form, and this House could have passed it. This Act for the relief of William Arthur Lavalley is directly in point. Now, I submit that the intervention of Parliament is asked for on the ground of public policy. It is in the interest of public morality that this relief should be given. We know very well that by the commission of a criminal act by the man, the act of adultery, these people could claim the relief which they now seek. Are we to place these two persons in such a position that they may be induced to commit a criminal act for the purpose of obtaining the relief which they now ask for? Furthermore, I say this, in the interest of public policy, that those people should not be driven across to the United States where that relief can be obtained. Consequently, I say it is not in the interests of public policy that an iron rule should be followed here possessed of no elasticity whatever. Under the circumstances of the case, the House should grant the relief that is sought.

HON. MR. POWER—As a rule, I do not take part in discussions on divorce Bills, and if this were an ordinary case of divorce, where, according to the rules generally followed in this court, the grounds for divorce had been established, I should not say anything; but to my mind it is a case so remarkable as to call for attention from every member of the court. We are here as members of a court. The hon. member from Calgary finding that there is really no precedent for what we are asked to do, either before this court or before any other court, has to fall back upon the omnipotence of Parliament, which, as some English writer once said, has power to do everything except to make a man a woman. We have heretofore been guided in this court by precedent, and it has been an established rule that unless adultery was proved, there should be no divorce. The hon. gentleman told us that the Lavalley case was a precedent exactly in point. Now I think there were some serious

differences between this case and the Lavalley case. In the latter the parties were married under false names. They do not appear to have been altogether in earnest, whereas in this case we have the testimony of the petitioner that she was perfectly in earnest and knew what she was doing. In the Lavalley case it was shown that the person against whom the divorce was sought, had gone through the ceremony of marriage with another man and had cohabited with him for a long time—had actually been committing adultery for a number of years, and so there was the clearest possible ground for granting the divorce, according to the rules which govern this Parliament. It is perfectly true that members of this House, influenced largely by a feeling of sympathy with the family of the woman in the Lavalley case, asked that the Bill should be worded in such a way as not to declare in so many words that the woman had been guilty of adultery; but the fact that she had been guilty of adultery was recognized and admitted. Now there is nothing of that sort in this case—nothing whatever. The hon. gentleman, too, told us that we ought to grant this divorce because otherwise the parties might go to the United States and get a divorce there. That is a most extraordinary ground to take. It is simply this: we are asked to do a thing that is wrong and indefensible, because if we do not do it some one else may. He might as well suggest that we should kill a man because if we did not kill him he would be killed by somebody else. I do not think that that sort of logic will commend itself to the good judgment of a majority of this House, and I hope it will not. The preamble to this Bill says that these people were married. The preamble of the Bill as reported by the committee admits the marriage; it could not very well deny it. Then the hon. gentleman referred to the marriages of minors, and suggested that the 26 George 2 really ought to be held to be in force here. That was a statute which I think was not a very wise one, perhaps, at any time. It was felt in England to be so unwise that it was desirable to repeal it, and it has been repealed; but it was held before the actual repeal in England that the statute was not in force in Canada. So any argument built on that old statute is not good for very much. What are the facts? We have to go here by the evi-