says that the impediment of impotency cannot be pleaded after three years of married life, while the canonical law, which was the old French civil law and which I believe to be the English law, provides that if the impotency is radical and organic and if it existed previous to the marriage, then there never has been a marriage and that impotency can be pleaded at any time as a ground for nullifying the marriage.

Those are the only cases so far as this impediment is concerned in which not a divorce but a judgment in nullity may be rendered by the civil courts of Quebec, and I am sure similar judgments have been rendered in Ontario and in every other country. So, in a case of this kind, there was no necessity whatever for the parties to come before parliament; they cannot claim what has been claimed by the upholders of divorce in this house, that they have no other remedy but to come before parliament asking for a divorce. They have their remedy before the courts of the province. The evidence proves that this case is one which should be adjudicated upon by the provincial courts, and the declaration of the senate itself, in the preamble of the bill—

Mr. EDWARDS (Waterloo): If my hon. friend will refer to page 5 of the bill it will be seen that these parties were married in September of 1918 and that they separated in February of 1922, so they could not come before the civil courts.

Mr. BOURASSA: Of course I do not know the Ontario law, and there may be a limitation, but the preamble to this bill states:

...and whereas by her petition she has prayed that, because of his physical incompetence to consummate the said marriage, their marriage be annulled . . .

My hon. friend says he does not know, and I do not know, the law of Ontario in this regard, but I do know that the ground upon which this divorce is recommended is one acknowledged under every civil law of which I have knowledge as being a ground for nullifying marriage. In other words, this is not a case for divorce but a case for a declaration by the courts, and if the laws of Ontario or Quebec are not broad enough to meet a case of that kind why should not the laws be amended in the proper way? Why should we, by private legislation, infringe upon a power which was supposed at the time of confederation to be vested in the provinces? That would raise a very interesting issue which I am sure will have to be taken up before

long, as to whether or not this parliament or the provincial legislatures are competent to legislate on such questions as this. If we pass over this matter, let us see in the future that parliament grants divorces only on one ground, which has been stated time and again during the various sittings devoted to these bills. Here is a case where it is not even intimated that the so-called statutory ground, which never has been defined by statute and which is not even mentioned in the criminal code of Canada, exists; according to the evidence and according to the preamble of the bill itself this so-called statutory ground is not present in this case.

Mr. BENNETT: That is the British statute of 1857.

Mr. BOURASSA: But that British statute is not in force here. If we want to put it in force let us say so; that would be far better and far less hypocritical than to go on granting divorces from year to year with no law to guide us as to the grounds for divorce or with regard to the taking of evidence. Then we have the organic impotency of this parliament to deal with the civil effects resulting from its decisions in these cases. Here we have a case where divorce is asked on a ground which is supposed to be covered by provincial laws, and we are unable to implement our decision, as is the case in respect to all these bills, looking to the effects which will result.

Section agreed to.

Section 2 agreed to.

Bill reported on division.

ISABEL HONOR GILDEROY

The house in committee on Bill No. 186, for the relief of Isabel Honor Gilderoy—Mr. Garland (Carleton)—Mr. Johnston in the chair.

On section 1—Marriage dissolved.

Mr. SPENCER: Are there any children in this case?

Mr. GARLAND (Carleton): One female child, in charge of the petitioner.

Section agreed to.

Section 2 agreed to.

Bill reported on division.