

at the present time to bring about some reformation in the procedure to which he refers. I do not think the question to which my hon. friend has addressed himself, would arise on this particular Bill until the House goes into committee. I voted against the amendment because when the House goes into committee there is opportunity to discuss the evidence and consider whether or not the Bill should be reported. If the committee, with the evidence before them, come to the conclusion that the evidence is not sufficient to justify the granting of the divorce, then this House would not be justified in reporting the Bill. If, on the other hand, the majority of the committee decide that the evidence is sufficient, the Bill should be reported, and go through, in the ordinary course. That was my reason for voting in favour of referring the Bill to committee.

Mr. W. H. BENNETT: When the Bill was before the committee I voted against granting the petition for two reasons: the first was that the evidence was not before the House. I also voted against it because I had heard part of the evidence discussed and I believe the parties should be left where they were. The woman is not an angel, as hon. gentlemen will see^e by reading the evidence, and the man is certainly not a very good man.

Mr. E. M. MACDONALD (Pictou): The question before the House is purely judicial. This House is acting in a judicial capacity, in a line with the action of a court of appeal dealing with the decision of a court of first resort. In the trial of the case, the judge has the opportunity of seeing the witnesses, of observing their demeanour and forming those impressions which, in a case of this kind, ought to be the deciding element in any matter where there is a conflict of testimony. I entertain much the same views as my hon. friend from Carleton (Mr. Carvell) with regard to the almost ridiculous method by which in certain provinces in Canada people have to come to Parliament in order to dissolve the marriage ties. But, pending some reformation and some change, we have to perform our judicial duties in that respect. I have the utmost confidence in the gentlemen who compose the Senate Divorce Committee. The chairman of that committee is a well known and distinguished member of the bar in my own province, a man in whose integrity and capacity I have the greatest confidence. I believe the members of the tribunal which deals with these matters in the Senate are the best judges of the evi-

[Sir Robert Borden.]

dence. I think we in this House ought to accept the conclusions arrived at by that committee, unless we have evidence indicating that they were departing from the general rules and principles which guide them in divorce cases. Unless a lobby is made, or pressure brought to bear, or some efforts are put forth to influence individual members of this House in particular cases, we should, I think, be disposed, if we were performing our duty, to accept the verdict of the men who compose that Senate Divorce Committee. It would be wrong to adopt any other course, unless hon. gentlemen had given the greatest possible attention to the evidence, and had undertaken to perform those functions which a judge of the court of appeal would perform, in reviewing the evidence taken before a subordinate court. I have not done that, and I believe few hon. gentlemen in this House have read the evidence. I think the sound rule is that we should accept the decision of the men who have passed judgment upon this evidence. It is a well known principle of law that appeal tribunals will not reverse the decision of a court of first instance, and more particularly the verdict of a jury, where the demeanour of the parties, their character, their antecedents and all these questions are at the very basis of a proper determination. That principle should be followed in regard to divorce cases.

Every hon. gentleman who has taken part as counsel in divorce cases before the courts of this country knows that these are the determining factors in the decisions in such cases. In view of the fact that our function is a purely judicial one; that we are acting as an appellate tribunal, it is the bounden duty of this House, there being no evidence that the other court, the Senate, erred grievously or overlooked some important consideration in coming to the conclusion which they did, to accept the judgment of the Senate.

Mr. G. W. KYTE (Richmond): I do not accept the suggestion of the member for Pictou that the House of Commons is an appellate tribunal taking cognizance, as it were, of an appeal from the Committee of the Senate or the Committee of the House of Commons. In my judgment, we are the tribunal. We as the House of Commons delegated certain functions to the Private Bills Committee. These functions having been discharged, it is for us to consider whether or not the Committee of the House of Commons properly discharged their functions, having regard to the evidence