

SELECT COMMITTEE ON DIVORCE.

Hon. Messrs.

GOWAN,	MACDONALD (B. C.),
KAULBACH,	OGILVIE,
LOUGHEED,	READ,
MCCLELAN,	SUTHERLAND,
MCKINDSEY,	

HON. MR. MCCLELAN—I would request that the name of some other gentleman be substituted for mine. I have served for several years to the best of my judgment on this committee. During this session I think it probable, though I am not sure of it, that I may not be able to give my attendance for any considerable time during the session, and, for other reasons, I would beg to be relieved from serving on this committee.

HON. MR. MACDONALD (B. C.)—Before this motion is put I desire to express my own views on the present system of dealing with divorce in this country. After some experience on Divorce Committees, and in the procedure in divorce in Parliament, I have for some time felt and thought that the time has arrived when a Divorce Court in Canada, or proper tribunal for dealing with divorce cases, should be created. The present system is highly unsatisfactory, and does not always meet the ends of justice: in fact, it is often a travesty of justice. Briefly, let us look at the position of things: In the first place, divorce cases are referred to a committee of this House, sitting as a quasi-judicial body, to hear evidence and counsel for the parties. This committee, often divided in opinion, reports to this House, which may be considered with reference to such matters as a jury of 72 members. One-third of those honourable jurors are opposed, from religious training, to divorce, no matter what the justice of the case may be. For this opinion I attach no blame to them. The other two-thirds of this jury may or may not take an interest in any particular case, but I think I am justified in saying that the House is sometimes swayed one way or the other from causes apart from the evidence placed before it. In saying this much, I seek not to cast any reflection on this House. In all the shortcomings of the system, I take my full share of the blame. Then, should a Bill run the gauntlet of this House, it goes

to another jury of 215 members, removed from the influence and voice of the committee which heard the evidence and found cause for a Bill. Whether this large body of jurors find according to the evidence, or from prejudice, favour or affection, I am not going to say; but I do say that in the whole system there is great risk of a miscarriage of justice. The same difficulty which is experienced in this country was felt in England for many years. Ecclesiastical difficulties and prejudices had to be contended with and overcome, and it was not until 1850 that some progress was made by the appointment of a commission to inquire into the working of the system. The commission reported in favour of establishing a court of divorce, but it was not until 1857 that Parliament was able to carry an Act giving effect to that report. That Act is now known as 20 and 21 Victoria, cap. 85.

The procedure in divorce was more complicated in England than in Canada. There three suits had to be brought—ecclesiastical, civil and parliamentary. Here, as hon. gentlemen know, we have only the parliamentary suit and procedure. There a consolidation of three jurisdictions was necessary in framing the constitution of the court; here the matter is more simple. It is true that a large and influential body of our people is opposed to divorce in any form. Making every allowance for the religious feelings of such a body, is the State justified in not giving full and free effect to the course of justice? Divorce must needs be, and tribunals must needs be, so there can be no question as to the duty of the State in such matter to apply the most thorough, simple, inexpensive and direct means of dealing with divorce. It may be said that the present system is beneficial, on account of the cost and other causes deterring many from applying for divorce. In reply to that I would say, that divorce ought not to be a luxury for the rich—that relief should be as free to the poor as to the rich. Without any desire to shirk my duty on any of the committees of the House, I feel no satisfaction in sitting on the Divorce Committee; and if the hon. Minister who leads the House could substitute some other name for mine I would be as well pleased.

HON. MR. SMITH moved that the name