

the report of the committee. He having charge of it, I supposed he would have told the House what the recommendation is, how it affects the Bill as it came before the House, and as it proceeded from the committee. I do not wish to take up the time of the House in discussing the matter, although it is a new departure from divorces that have been granted heretofore, and involves a great many questions to which the committee gave considerable attention. I am glad to say that upon all the facts of the case the committee were unanimous, but on the enacting clause upon those facts I had the misfortune to differ from the rest of the committee. I do not consider that upon the facts found we are justified in making such a departure from the principles laid down here, and to which we have hitherto so strictly adhered—that is, to grant no divorce, except on the ground of adultery. Before I sit down, I shall show to the House the position in which this matter comes before us in the report which we are asked to sanction. The Bill has been changed, and there has been eliminated from it any allegation of desertion. It says that they have been married, and that the committee consider the marriage is a legal marriage. There is nothing in this Bill that alleges adultery, nothing that alleges desertion or cruelty; but the finding of the committee is, that they were legally married; that they did not cohabit together, and upon those grounds, and those solely, we are asked to confirm the report and the enacting clause, which will grant the petitioner relief. Before we move in this matter any further, we should consider the position of the parties. There has been a legal marriage; they did not live together; he did not desert her immediately after the marriage, but they lived separate by mutual agreement and there is nothing in the Bill alleging cruelty on his part, and it is such a departure from our usual practice, and creates such a dangerous precedent to grant a divorce under such circumstances, that we should hesitate before passing such a Bill. When this matter came before us, presenting as it did so many novelties, we decided upon certain points which we considered were worthy of consideration from a legal point of view. Each member of the committee desiring to have information, we formulated certain points, and with the assis-

tance of our Law Clerk, who assisted us very much in getting precedents, we got all the information we could on the points of law as to what constitutes a marriage; and I am satisfied, after looking at those cases, and some that I searched up myself, that there was a legal marriage in this case and that was the unanimous finding of the Committee. One of the enquiries was, at what age can the parties contract? And that we found by precedent was 14 in males and 12 in females. Then, as regards what is necessary to consent, there must be an assumption of the status. To make a marriage invalid it must appear beyond question that it was the result of compulsion—that there was an apparent unwillingness, an apparent assent influenced by fear of violence. In this matter of consent, was it done under duress, fear, or restraint, fraud or violence? We found that there was nothing of that kind in this case; that there was consent between the parties, and sufficient age, they were capable of contracting marriage, and consent being established these points were beyond dispute. Then another question arose, as to the consent of the parents and guardians, these people being under age of 21.

HON. MR. POWER—The husband was not under age.

HON. MR. KAULBACH—I think he was under age also—not quite twenty-one—and she was twenty years and six months old. Then we say here that it is not necessary to have the consent of the parents and guardians to make a marriage contract binding. There is no statute that makes it so. There was another point taken, whether it was void through any fraud in obtaining the license. We found that even if there had been, it would not vitiate the marriage, and there are authorities on that point. Then, as regards consummation, that, we find, is not necessary to make the marriage binding. It is a matrimonial right that they have, but it is not necessary in order to constitute a legal marriage. On these points we have the established authorities, and therefore having, I believe, satisfied ourselves that such was the law, we considered, under the facts of this case, that there was a legal marriage. This being a legal marriage, there being no desertion, no cruelty, nothing complained of on the part of either of them, except that they did not live together—