

of procedure, and consequently should not be provided for in this bill. But when the person upon whom the service is sought to be made resides outside the jurisdiction of the court, then it is a very grave question indeed as to whether it is not something more than a mere matter of procedure, but rather a question of jurisdiction. I think my hon. friend from St. John and Albert will at once realize that situation, and if such a provision were not in the bill, undoubtedly the bill would largely become inoperative. But even if it is unnecessary it will not in any event invalidate other than the particular section itself, and it seems to me it cannot possibly do any harm. It may, on the other hand, be a matter of jurisdiction which may be vital to the bill having any real value in its operation.

Mr. BAXTER: It seems to me a great pity that in a matter of this kind which is of some importance we should not be able to hear what my hon. friend from West Calgary (Mr. Shaw) is saying. If we are going to discuss public bills, I think there should be such cessation from private conversation as would enable members to be heard.

Mr. McBRIDE: I might remark that we cannot hear what the hon. member is saying now.

Mr. BAXTER: I can assure my hon. friend that I can make anyone in this House hear me, but I do not care to use my voice to that extent unnecessarily. If the hon. gentleman who has spoken will provoke me sufficiently I will speak quite loudly.

Mr. McMASTER: Then let somebody provoke the hon. member.

Mr. BAXTER: If we have just reasonable quietness in this chamber a very ordinary tone is quite sufficient to render one audible in any part of the House, according to my experience. I understand my friend from West Calgary shares the doubt about this matter. If he shares that doubt it is no longer a trivial matter. It is an invitation to a possible litigant to proceed along lines which may be utterly unsafe; and therefore I think that would be an excellent ground for dropping the clause. We are all familiar with the principle of divorce jurisdiction. The matrimonial domicile is always the domicile of the husband, and whatever jurisdiction he is subject to has power to reach him. The divorce proceedings I understand are administered in the western provinces by the ordinance courts. Those courts have ample power to send their processes outside of the jurisdiction of the province, and I would rely

on the province in that respect. I do not want to urge the matter too strongly, but I would invite the opinion of the Minister of Justice (Mr. Lapointe), who, I trust, will express his view. I feel it would be much safer for the litigants if this clause were expunged. Let the litigants rely on the general authority of the court rather than insert a clause which might cause great difficulty in dealing with one of the most important things in life. People relying on this clause might find that after the proceedings had been taken they had obtained no real divorce. If you rely on the general jurisdiction of the court you will be perfectly safe. I am not raising this point in a spirit of fault-finding or criticism—I think my hon. friend will agree—but I feel it is a serious matter and that parliament should give its best attention to it, having passed on the general principle of the bill.

Mr. LAPOINTE: I think this section is unnecessary. The purpose of the bill, as my hon. friend very ably explained is to secure equality in the grounds of divorce for both men and women. This is obtained by other sections of the bill. This section refers only to the service of the document, and surely provision for such service exists at the present time. You have your courts in all those provinces, actions are instituted, and there must be a method of service already in existence. I do not see why this section is necessary to secure what my hon. friend has in his mind.

Mr. MARTELL: I do not want to interpolate anything in regard to this matter. It is seldom I can agree with my hon. friend from St. John and Albert (Mr. Baxter), but I think it is perfectly plain that while the matter of setting forth what the law should be in regard to divorce is one altogether of federal jurisdiction, the matter of the procedure to be applied is one of provincial jurisdiction. This clause which my hon. friend from West Calgary (Mr. Shaw) has inserted in the bill is purely a matter of procedure. Therefore it is a matter of provincial jurisdiction. Now when you come to our courts, the jurisdiction is determined first as to what shall be the grounds for divorce, both as regards men and women; and the hon. member for St. John and Albert has said that this simply refers to equality as regards men and women as to the reasons for securing a divorce, and that is the reason why I voted for the bill. In certain provinces of Canada there are divorce courts, and the procedure in these divorce courts is regulated by provincial jurisdiction or provincial procedure.