

marriages. I have understood that some objection too was made to that portion of the Bill which renders it retroactive in its operation, or at least to a certain portion of it. I will endeavour to show that these objections are not altogether well-founded. First, as to the constitutionality of the "dispensation" clause, there is no doubt that, under the Constitution of 1807, this Parliament has alone the power to declare who can contract marriage. Generally speaking, we ought to follow the intention of the framers of the law, but that is not sufficient when the letter is evidently inconsistent with the expressed intention. There is no doubt, in my humble opinion, that everything appertaining to marriage and divorce belongs to this Parliament exclusively; we may permit marriage between, not only brother-in-law and sister-in-law, but minors, and we may not only deal with these matters, but also recognise Church dispensation from impediments imposed by the different Churches in these respects. The "dispensation" proviso was introduced to meet a serious objection of the members of the Church of England. Hon. members will recollect that, by the first Bill I had the honour of introducing, the validity of the marriage was to depend on the rules and regulations of the church celebrating the marriage. It was represented, and rightly so, that that law, while giving relief to the Catholic Church and Dissenters, would not relieve members of the Church of England. As the hon. member for Gloucester (Mr. Anglin) said the other evening, the Catholic Church, although not favourable to these marriages, for grave reasons grants dispensation from the impediment of affinity; but in the Church of England there is no such a power. Therefore, under the Bill as first introduced, the members of that Church would have been in a worse position than under the existing laws, as far as some Provinces are concerned where, by the law of the land such marriages are only voidable. The clause was therefore changed so as to limit the condition to the Catholic Church. We all know that that condition or reservation concerns no one else but the Catholic Church. The proviso declares that, if in any Church a dispensation be required, that dispensation shall be first obtained. The clause providing that no

minister should be obliged to celebrate such marriages was put in to meet another objection of some clergymen of the Church of England. It is no novel provision; it is no new legislation; the Legislature of Australia has passed a similar law. I come next to the question of jurisdiction. I cannot understand how it is that this House has every other jurisdiction except the power to recognise Church dispensations in regard to marriage, or relieving from the incapacity to contract marriages. As the hon. member for Gloucester rightly remarked, this dispensation has no reference to the celebration of marriage; it is a dispensation from incapacity by reason of affinity. It has no other reference than to the capacity of parties to contract marriage; and for that reason this clause is within the legislative jurisdiction of this Parliament, and not within the jurisdiction of the Local Legislature. The hon. member for West Durham (Mr. Blake) explained, the other evening, at great length, the law of the Province of Quebec, as far as the solemnisation of marriage is concerned. He referred to the opinions of the Crown law officers as to the power of the Local Legislature to empower the granting of licenses to celebrate marriage; but that was not a dispensation, at least in the sense referred to when the impediment from affinity has to be removed. These licenses had reference only to certain formalities preceeding the celebration of marriage, such as banns, etc.; they do not bear upon any of the essentials to the contract of marriage or the capacity of the parties. Another objection to this clause respecting dispensation was put forward on the ground of its uncertainty. I have read it over and over again, and I cannot understand how that objection can be made. It states that, if any dispensation is required to give validity to the marriage, such dispensation shall be obtained. If there is anything equivocal in that, I cannot see it. It is plain that it only affects the Catholic Church. It has been said also, by the hon. member for West Durham, that the Bill as it is will render the position of the parties very difficult with regard to mixed marriages. It will be the same as to-day; if the marriage is celebrated in the Catholic Church the dispensation must be obtained; but if it is celebrated before a Protestant