

*Divorce*

fully elucidate one part of the argument of the hon. member for West Calgary I feel it my duty to attempt to do so lest he may overlook the point or neglect to refer to it in the concluding remarks which I assume he will make. He pointed out that though the husband in the four western provinces might divorce the wife for the cause of infidelity alone the wife has not there a reciprocal privilege enjoyed by her sister in England, but that if she sought to divorce the husband she could only be successful in the courts of our western provinces of Canada, if, in addition to that infidelity, she proved a cause of great cruelty or a cause of unjustifiable desertion on the part of the husband. Now cruelty is not taken by the court in the popular but in a very strict legal sense of that word, and I shall attempt, not to exaggerate, but to show the vast disability there is against the woman in this respect.

There are two kinds of cruelty in the eyes of the courts, and of the divorce court of this parliament, I believe—physical cruelty and mental cruelty. Physical cruelty is easily susceptible of proof. The man who is coward enough to strike a woman or to use actual physical cruelty in any form against her is easily found out, and if the woman is equipped with the necessary cash to carry on her suit she will probably not have any difficulty in getting the necessary evidence of physical cruelty; but it is much more difficult to prove mental cruelty. On the one hand, we have the wife, who may have been guilty of one isolated case of infidelity, subject to being divorced. On the other hand, the husband might have been living a life of open infidelity, but the wife could not secure a divorce from him on that ground alone. She must supplement that with these ancillary grounds, and the ground she finds most difficult to prove is mental cruelty. She may come before the courts and prove that her husband exercises a great many forms of mental cruelty against her, using that word in its popular sense, but the court guided by the decisions from which the hon. member for West Calgary (Mr. Shaw) so usefully read this afternoon, sets itself the stern task of deciding whether that cruelty be sufficient to destroy her health, or directly and unequivocally calculated to do so. You see at once, Mr. Speaker, that that is an absolutely drastic, a very hard, and a very unfair test; but it is illuminating as showing the vast disability there is between the status of the man and that of the woman when they apply for divorce in our western provinces. The court may say, for example, in the case of a woman in frail health, that if the husband persisted without cause in calling her a

[Mr. Putnam.]

harlot, if he persisted in abusing her church and her religion, and in teaching the children infidelity instead of Christianity, that that constituted mental cruelty, and that would allow her to succeed in her case; but the same judge might decide in the case of a healthier woman that reprehensible as the husband's conduct was it did not constitute mental cruelty such as was calculated to break down the wife's health. So you can see at a glance, Mr. Speaker, there is a far greater legal disability against the actual status of the wife than appears on the surface. If I have elucidated that, I have accomplished the main purpose for which I rose.

Before taking my seat, I wish to say that I enjoyed very much the address of the hon. member for Southeast Grey (Miss Macphail). That hon. member never speaks without giving me at least some useful viewpoint peculiar to woman.

Mr. McMASTER: She touches no subject she does not adorn.

Mr. PUTNAM: I concur. In this particular case I know that throngs of the sterner sex will fervently hope that she spoke but personally when she came out generally against marriage, and will equally hope also that she spoke in the light of that wide and untrammelled privilege which every woman has, in spite of any feminine disabilities, of changing her mind at any time.

Mr. PIERRE F. CASGRAIN (Charlevoix-Montmorency) (Translation): Mr. Speaker, before the question is put, I deem it my duty, seeing that this motion is again before the House, to reiterate the objections which I had the honour to raise, on March 19, 1924, against such a measure introduced under the form of a resolution by the hon. member from West Calgary (Mr. Shaw) and who, to-day, introduces it as a bill.

The remarks which I uttered on that occasion, following on those of the hon. members who have just preceded me in this debate,—and I am glad to be once more in their company—will be found at page 495 of Hansard of last session. I then set forth the reasons which militate against the resolution. In my opinion the same reasons carry more weight at present against the bill of the hon. member for West Calgary (Mr. Shaw) which if adopted will have force of law, and I, therefore, cannot do better than to very strongly protest against this bill and bring to bear all and each of the arguments of last year.

I was not present this afternoon, when the hon. Minister of Justice (Mr. Lapointe) ex-