

Now, if this condition in which they find themselves becomes intolerable, why should they not be restored to their original position? Does the contract make it any the more imperative that they should be compelled to lead lives of misery, ending in death as the only relief? They may voluntarily separate, why not legally? They changed their status voluntarily, and without any obligation to the law in doing so. The law permits them practically to separate and live apart, as if they were unmarried, except that the restraint of the marriage tie remains, and marriage with another cannot be entered into. In other words, nearly all the practical results of single life, with its so-called freedom and relief from domestic trouble and responsibility, may be obtained by an agreement between the parties. Morally and socially they are divorced, and yet they must continue to be bound to each other by a bond which requires in Canada the united power of the Senate and Commons to sever. Regarding such a state of life, it may be fairly argued that having done all the damage possible to the marriage relationship, having destroyed the peace and union of a family, and having opened the door for scandal and endangered the reputation of both parties by making a separation valid and enforceable, the law might go a step further, and as a surgeon with his knife cuts away the diseased tissue to save the limb, so might the courts be empowered to operate on the moral and domestic relationship of husband and wife, and thereby save whatever of honour, virtue or respect might be found in the wreck of two lives.

But it will be said that the sanctity of the marriage tie must be protected. That this is right and necessary must be freely admitted. But what do you say about a case where the husband or wife, or both, have themselves degraded the marriage obligations, defiled the sanctity of the marriage relation, and rendered life unbearable and disreputable. Take the usual evidence in alimony actions, to say nothing of the graver facts in divorce cases. Open and notorious misconduct of the gravest character; cruelty, contempt and antagonism down to the minutest trifles of life; absolute want of sentiment; constant quarrelling with each