

prisonment, or fine, before their eyes, it might have a wholesome effect. Mr. Johnston seems to assume that men alone are matrimonial offenders deserving of punishment, but the divorce statistics of Canada will shew that there are nearly, if not quite, as many women as men whose misdeeds have been grounds for divorce. But such statistics are illusive, and if the full facts of all divorce cases were thrashed out it would often appear that the supposed innocent party was really very far from innocent. Many petitions which now go undefended might have a very different result if it were known that the respondent, if found guilty, would have to serve a term of imprisonment.

But that a Parliament of men would be willing to pass any such law, seems somewhat doubtful.

Mr. Johnston asks, where a married couple find themselves in a condition which has become intolerable, "why should they not be restored to their original position?" The obvious answer to that question, is that it is simply impossible to do so, the granting of a divorce cannot do it. A divorce does no more than put a legal end to a status which is not a mere legal status, but a social and a moral one; but it cannot by any possibility restore the parties to their original position, as if they never had been married; and it is precisely this fact which makes the question of divorce so difficult. It is, at best, a rude, imperfect and doubtful remedy for an irremediable wrong. The ordinary legal principle on which contracts are rescinded, is, that such a remedy can only be given where the parties can be restored to their original position as if the contract had never been made. If the contract has been partly executed and it is impossible to restore the parties to the *status quo ante* the only remedy is in damages. Those who advocate a divorce law, therefore, virtually desire that to the marriage contract a wholly new principle of law shall be applied.

Mr. Johnston suggests that in the consideration of the subject of his proposal to establish a Divorce Court in Canada, we should eliminate the religious question entirely. We think he is mistaken in this, and that the religious aspect of the question must be kept steadily in view. It must be always remembered that there is a great body of opinion in Canada in favour of the view that marriage is not a mere civil contract, but that it involves a sacred religious obligation, and any legislation which may be proposed must be framed with due regard to that opinion. The difficulty, of course, is that any such law must be general in its operation, you cannot frame it so as to exclude any denomination from its operation, if they choose to avail