

Divorce

inconvenience as the woman and compel him to prove cruelty and desertion on the part of the wife?

Some hon. MEMBERS: Oh, oh.

Mr. SHAW: The laughter that has greeted my hon. friend's question is perhaps the best answer to it. I said at the outset that the great cardinal sin against the marriage relationship is the commission of adultery. Why camouflage that situation by asking the husband to prove cruelty in addition? The very proposition contains its own answer.

Now may I in that connection, in urging a plea for equality so far as our western women are concerned read the views of perhaps the greatest liberal of the nineteenth century, I refer to Mr. Gladstone. At the very time this Matrimonial Causes Act, to which I referred as the English law which governs our present four western provinces, was in the course of its passage through the British House of Commons, Mr. Gladstone, although conscientiously opposed to divorce, used this language:

For my own part I shall always assert the principle of equal rights. It is impossible to do a greater mischief than to begin now, in the middle of the 19th century, to undo, with regard to womankind, that which has already been done in their behalf, by slow degrees, in the preceding eighteen centuries, and to say that the husband shall be authorized to dismiss his wife on grounds for which the wife shall not dismiss the husband. If there is one broad and palpable result of Christianity, which we ought to regard as precious, it is that it has placed the seal of God Almighty upon the equality of man and woman with respect to everything that relates to these rights; and I will offer the utmost resistance to any attempt to induce this House to adopt a measure which, I believe, would lead to the degradation of woman.

In the year 1912 a royal commission was appointed in England for the purpose of investigating the whole of the divorce problem. It was composed of representatives from all walks of life; representatives, I think, of practically all the major religious denominations. It heard evidence from every part of the country and from all available sources, and on this question of the equality of men and women the members of the committee were unanimous in their judgment. I read now from the report of the commission itself:

Apart from abstract justice the strongest reason for placing sexes on an equality is that, where two standards exist, there is a tendency to accept the lower for both parties. The social and economic position of women has greatly changed in the last hundred, and even in the last fifty years. The Married Women's Property Act, 1882, has given them a new status in regard to property; they engage freely in business and in the professions, and in municipal, educational and Poor Law administrations, and claim equality of treatment with men. In our opinion it is impossible to maintain a different standard of morality in the marriage relations, without creating the im-

[Mr. Beaubien.]

pression that justice is denied to women, an impression that must tend to lower the respect in which the marriage law is held by women.

The commission reported to the House definitely, as follows:

Our conclusion is that no satisfactory solution of the problem which is raised as to the personal relations between husband and wife can be found, except by placing them on an equal footing, and by declaring that, whatever grounds are permitted to a husband for obtaining a divorce from his wife, the same grounds shall be available to a wife in a suit against her husband.

That was the judgment of a royal commission in England in 1912 after some two or three years of the most careful investigation.

Then, in addition to the broad objection on conscientious grounds, the suggestion may be urged that here is the Parliament of Canada available to people alike from every province of the Dominion—to the wife as well as the husband. My answer to that is: I am not sure that the Parliament of Canada should properly concern itself with the granting of divorces. It seems to me that is a function which might more properly be reserved for the courts. But consider the position of a woman who wishes to appeal to parliament to grant her a divorce. Deprived of her husband's support she is likely to be penniless. But in order to properly place her case before parliament she must face a large expenditure. I think that \$210 is the initial expense, payable to the Senate, for publication, expensive advertising and other charges of that character. Then she must come to Ottawa and bring her witnesses here. She must also secure legal assistance to present her case. One can readily see that the charge upon this unfortunate woman, especially if she comes from a long distance—as she must,

4. p.m. coming from western Canada—is such that in very, very few cases indeed is the woman in a position to avail herself of the opportunity. Therefore I think our plain duty in reference to these four western provinces is to grant this relief.

My bill does not seek to disturb the situation in the eastern provinces, does not seek to allow the granting of divorce in Ontario or Quebec further than is allowed at the present time, and does not ask to change the relationship in the Maritime provinces; it simply asks that the woman shall be entitled in the four western provinces to claim her divorce before the courts of those provinces on the grounds of adultery. The divorce law under which our four provinces now operate is the English law as it stood in 1870, but England has changed her law now. In that year a woman was given the right by the Parliament of the United Kingdom to claim a divorce on the ground