

enforce the payment of the same for several years, the court said "Alimony is allotted for the maintenance of a wife from year to year."

In favour of the arrangement it is said that it makes the wife secure for so much money, whereas if payable from year to year the husband might evade payment: that is a reason of convenience; against which it may be said that if a sum be paid in gross to the wife she would be apt to live upon her capital; and at no very distant period probably be left destitute.

But the reasons against this arrangement, on grounds of public policy, appear to me to be very strong. The law does not contemplate that the husband and wife will live apart for life; but looks forward to their reconciliation; and so the sentence of divorce *a mensa et thoro* by the ecclesiastical courts was only "until they shall be reconciled to each other," and the sentence of judicial separation under the present law is doubtless in similar terms. The arrangement in question buys off the wife for life; it takes away one inducement on the part of the husband for reconciliation; its tendency is perpetual separation.

It is open to this further serious objection. The wife is entitled to her alimony only so long as she leads a chaste life. A wife separated from her husband is exposed to great temptations, every provision that tends to keep her from falling is valuable; this arrangement would remove one safeguard.

Under the Imperial Divorce and Matrimonial Causes Act, the court when decreeing a *dissolution* of marriage, which can only be by reason of adultery, may order the husband to secure to the wife a gross sum of money or an annual sum; but in those clauses of the statute which relate to *judicial separation* there is no such provision; but the enactment is simply this, that the court may order the payment of alimony; which I understand to mean alimony according to the ordinary course of the ecclesiastical courts, and not a gross sum.

The distinction is marked—where the woman ceases to be a wife a gross sum may be paid to her; but where she remains a wife there is no authority for such a payment. I must add that the reasons against it appear to me so weighty, that in my judgment the court ought not to approve of the arrangement proposed. There must be a reference back to the Master to allow alimony in the usual way.

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### CORRESPONDENCE.

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*Assessment*—*Con. Stat. U. C., cap. 55, s. 96.*

TO THE EDITORS OF THE LOCAL COURTS GAZETTE.

GENTLEMEN,—Will you be so good as to inform your readers whether there has been any legal decision on the meaning of the words, "*Who ought to pay the same,*" as used in the 96th section of the Assessment Act (*Con. Stat. U. C. cap. 55.*)

Our local authorities here seem to think that any person whose name happens to be on the assessment roll for the year, in connec-

tion with any *real* estate, is liable to be distrained on for taxes due on said real estate, under the authority of the above quoted section. Now you can easily imagine cases in which this interpretation would work a monstrous wrong to innocent parties. Assessments having been hitherto made just before the usual time for changing tenements, persons may be, and have been assessed for properties which they occupied for only a few weeks of the year for which the assessment was made, and having no longer any connection with the property, or any interest in it, it seems hard that they should be compelled to pay taxes for the owner or present occupant, from whom special circumstances, easily conceived, may prevent the possibility of their recovering the amount so paid. Section 24 provides that taxes may be recovered from either owner or occupant, &c., &c. *Query*—Does not that mean occupant, &c., at time of *collection*, or can it refer to *previous* occupants who are not mentioned as are *future*? Section 26 provides *easy* redress for any "*occupant*" (evidently meaning *actual* occupier at time of levy) paying unduly taxes. And sections 97 and 107 provide ample recourse for collection of taxes on *real estate*, shewing at the same time that it is the *realty*, if I may use the term, which is intended to be taxed, or more accurately speaking the *owner* of the property.

The common sense inference would, therefore be, that the person "*who ought to pay*" the taxes is he who owns the property, real or personal, or who enjoys the use of it when the taxes are collectable, and not the person whose name may happen to appear on the roll in connection with it. And to such owner or possessor at the time indicated the power of levying or distress would seem to be limited.

Your opinion or any information you can give on these points, will be thankfully received by,

Gentlemen, your humble servant,  
AN OVER-TAXED RATE-PAYER.  
Ottawa, October 10th, 1865.

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[There are many "hard cases" which the law does not and cannot provide for. Our correspondent's case may be one of these. It would be impossible for tax collectors to constitute themselves judges of who is really bound to pay the taxes which they find chargeable against a property or the owner or occupant of it. Taxes are supposed to be