

## The Legal News.

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A singular case of 'touting' for legal business has attracted some notice in Bombay. One Kanji Luhda approached Lord Colin Campbell, a barrister of the High Court of Bombay, and offered to procure business for him if Lord Colin would pay him a commission on the fees thereby gained. By way of overcoming any scruples which Lord Colin might entertain, the tout informed him that certain other barristers of the High Court, and among them the Advocate General of Bombay, were in the habit of allowing him part of their fees on the business procured by him. This statement reached the ears of the gentlemen named, who declared that it was wholly false, and they have laid an information against the tout for defamation. In some parts of India it is a criminal offence for a barrister to pay a commission on business obtained for him.

*State of North Carolina v. Dowell*, 11 S. E. R. 525, appears to be an extraordinary case. It raised the question whether a husband can properly be convicted of assault on his wife with intent to commit rape. The facts were that the white husband of a white woman, by threat of death and holding a loaded gun over the parties, compelled a negro to undertake a sexual connection with his (the white husband's) wife. Before the act was consummated, the accidental discharge of the gun enabled the negro to make his escape. The crime of assault with intent to commit rape being a misdemeanor, in which no degrees are recognized, the husband was indicted as a principal, and convicted. Shepherd, J., delivering the majority opinion of the Supreme Court, sustaining the conviction, said: "The defendant strangely insists that he is not guilty because he is the husband of the prosecutrix; and he relies as a defence upon the marital relation, the duties and obligations of which he has, by all the laws of God and man, so brutally violated. In our opinion,

in respect to this offence, he stands upon the same footing as a stranger, and his guilt is to be determined in that light alone. The person of every one is, as a rule, jealously guarded by the law from any involuntary contact, however slight, on the part of another. The exceptions, as in the case of a parent, or one *in loco parentis*, moderately chastising a child, or a schoolmaster a pupil, are strict and rare. It was at one time held in our state that the relation of husband and wife gave the former immunity to the extent that the courts would not go behind the domestic curtain, and scrutinize too nicely every family disturbance, even though amounting to an assault. But since *State v. Oliver*, 70 N. C. 60, and subsequent cases, we have refused the 'blanket of the dark' to these outrages on female weakness and defencelessness. So it is now settled that, technically, a husband cannot commit even a slight assault upon his wife, and that her person is as sacred from his violence as from that of any other person. It is true that he may enforce sexual connection; and, in the exercise of this marital right, it is held that he cannot be guilty of the offence of rape. But this privilege is a personal one only. Hence if, as in *Lord Audley's case*, 3 How. St. Tr. 401, the husband aids and abets another to ravish his wife, he may be convicted as if he were a stranger. The principle is thus tersely expressed by Sir Matthew Hale: 'For though in marriage she hath given up her body to her husband, she is not to be by him prostituted to another.' (Hale P. C. 629.)"

A wife went to a camp meeting lately, and while there submitted to sundry familiarities on the part of persons present, which displeased her husband, and an action for a divorce was the result. Proof being made of gross improprieties, her counsel had the hardihood to urge in her behalf that such things were so customary at camp meetings that nothing wrong could be presumed from them. The Court (Bird, V. C., in *Patterson v. Patterson*, New Jersey) was evidently somewhat shocked by this plea, and said:—"Counsel insists that many of the acts complained of—such as kissing, and the taking of likenesses together, and the resting of the head of a mar-