

tical divorce from bed and board, which was not a complete severance of the marriage bond.

Hon. Mr. Dickey—On what evidence in this case do you ask us to grant a separation *a mensa et thora*.

Hon. Mr. Macdougall—On the ground of desertion and cruelty, the latter as shewn by the treatment of his wife from the beginning to the end of this conspiracy. His unjust suspicions and refusal of all opportunity for explanation; his taking away the children on a false pretence; his determination to be separated from her, as shown by the evidence, before he had any proof except an anonymous letter; his cruelty in expelling her from his house, an act in its circumstances unprecedented in the annals of divorce courts, so far as I have been able to explore them; that attempt at starvation; that insulting notice to tradespeople; that blackening of his wife's character over the whole country,—all these acts and circumstances corroborate and establish the legal offence of cruelty. I say his conduct from beginning to end is evidence of cruelty, desertion and ill-treatment, and justifies my demand that this Parliament should use the high powers which the constitution has committed to it, and award to Mrs. Campbell a full one-third of her husband's income, and also a reasonable allowance for any children that may be allotted to her. In cases of this kind, where the mother is not proved to be unchaste, she is usually allowed to have the custody of the younger children. In this case I shall ask, in the event of the Committee finding that no adultery was committed, that she be allowed to retain the child now under her care, and her little girl. Let the husband keep the boys. To make out my case in accordance with precedents I call the attention of the Committee to the position of the wife before the Courts of Ontario. I admit as a principle that if an adequate remedy could be obtained by an appeal to the courts of law (although there are precedents the other way) the natural order of events would be, the dismissal of the Bill and an application to the courts for judicial separation and alimony. But as I have already pointed out, the courts in Ontario have no power to decree separation. [Mr. Macdougall referred again to the authori-

ties on that point.] It is a favorite boast of legal writers that there is no wrong without a remedy. Unless you apply it in this case no other tribunal can. Parliament has exercised its high authority in England, in cases where the courts could have supplied the remedy. I will call your attention presently to a remarkable case on this point, because I have heard some doubts expressed on the subject. But let me remind you that the 91st section of the Constitution gives exclusive jurisdiction in matters relating to marriage and divorce to this Parliament. Clearly you have the power of legislating. In this case the petitioner comes to this court and acknowledges jurisdiction, and asks for a divorce *a vinculo*. If you think proper you can grant a divorce *a mensa et thora* for the greater includes the less. As a matter of expediency, if there were any means of applying to the Court of Chancery, and if that court could grant an adequate remedy, such as I ask at your hands, I would have advised my client to go there, notwithstanding the delay and expense. But let us see what was done in England in the case of Miss Turner, who ran away from school with a man named Wakefield, who like Portman, was afterwards seen in Canada. He induced her to believe her father had become bankrupt, and wished her to marry a rich person to save his credit. They ran across the border and were married hastily, but according to Scotch law. Fortunately the marriage was never consummated, and Miss Turner's father succeeded in convicting Wakefield in a criminal court for his fraud, and sending him for three years to the penitentiary. Mr. Turner applied to the House of Lords for a dissolution of the marriage which was valid in law until the contrary was determined. It was argued that as Miss Turner could have applied to the Scotch Court, and on the ground of deception and fraud demanded a judicial separation of the marriage, Parliament ought not to interfere. It was admitted the Courts had jurisdiction, and could dissolve the marriage; but as Mr. Turner had already spent £10,000 in law, the most distinguished members of that august body, amongst whom were Lords Eldon and Tenterden, held that the case might be, and in the circum-