

These remarks of the learned Chief Justice, as he then was, are certainly deserving of weight, and they may serve the purpose of reminding the reader that the last word on the subject has not yet been heard. It may be that the House of Lords may take a different view to the several learned Lord Justices and Judges who decided the three cases we have mentioned. Yet one cannot but feel the weight of Mr. Justice Mathew's remark that to put any other construction on the Act would be to make it an Act for relieving husbands and not an Act for dealing with the wife's property.

In truth, it would seem that the husband has come off badly in the course which the development of the law has taken. He has lost his privilege of gentle chastisement while still retaining his liability for his wife's torts. The Legislature has destroyed the comfortable doctrine that the wife's property belongs to the husband. The old doctrine embodied in the homely and apt phrase in the mouth of the husband, "What is thine is mine, and what is mine is my own," has gone, together with his homely privilege of correction. Yet he continues liable for his wife's torts, although he may never have known of the commission of such torts till he hears of it through the plaintiff. Now, until the House of Lords thinks fit to do so—if the House of Lords is prepared to override the decisions of a considerable number of eminent lawyers—and until occasion arises the husband must submit to things as they are.

Some further observations ought to be added on this liability of the husband for his wife's torts. The liability of the husband, is, as we have pointed out, a liability to be sued jointly with her. The foundation of this liability was originally that she could not be sued alone. When judgment was obtained against the defendants, it was a personal judgment against both. But if the wife died while the action was pending, and before judgment, the whole action fell to the ground. On the other hand, if the husband died while the action was pending, the action was continued against the wife alone. The ground for the husband's liability in such cases was not, nor is it still, that he participated in or must be taken to have known of the tort. "During coverture,"