in *O' Connor* v. *Marjoribanks*, 4 M. & Gr. 435, where in an action of trover for goods by the husband's executor, it was held that his widow was not admissible as a witness to prove that she had pledged the property in question with the defendant by her husband's authority. So it has been held under the old law that if a woman, who was once legally the wife of a man be divorced *a vinculo matrimonii* by Act of Parliament, she cannot afterwards be called as a witness against him to prove any fact which happened during coverture, though she is competent to give evidence of transactions, which took place subsequent to the divorce. See *Pea. Evid. p.* 183, *Munroe* v. *Twisleton*, Peak. Add. Cas. 221.

These authorities shew the precise value of another exception in the Ontario Statute. We refer to sec. 5 sub-div. *c*:—"Nothing herein contained shall render any husband compellable to disclose any communication made to him by his wife during coverture, or shall render any wife compellable to disclose any communication made to her by her husband during coverture." This clause cannot refer to any period during the continuance of the coverture, for then it is to embraced in the more extensive language of sub-div. *a* of this section. It must mean that after the death of either husband or wife, the survivor (widow or widower) is competent to give evidence of communications made during the coverture, but is not compellable to do so, and as to such communications may plead privilege in respect thereof. This clause will, no doubt, be held to apply also to a case of divorce. If our intepretation be right, then husband or wife, after death, or divorce, or either, may be compelled to give evidence of matters that occurred during coverture, where the knowledge of such matters does not arise, from any communication between husband and wife.

The sub-sections we have referred to afford a curious illustration of the compromise character of this statute. It is, we think, a sort of transitional Act of Parliament, half-way between the retention and the abolition of privilege in matters of evidence. Sub-division *a* maintains the old rule of common law; sub-division *c* greatly encroaches thereupon, and in so far assimilates our law to that of the present statute law of England.

Similar uncertainty of principle obtains as to the last sub-division of this section; whereby it is provided that parties to actions by or against personal representatives of a person deceased, are not competent witnesses as to any matter occurring before the death. To be consistent the Legislature should have extended the prohibitions to actions by or against the real representatives as well. But here again it is a matter for grave consideration whether the best course is not, as in England, to erase this clause from the statute book and let the evidence be given for what it is worth. The Courts in England have laid down a rule which perhaps, if we agree to the principle of the change, affords a sufficient safeguard here in cases within this subsection: namely, that no one shall take a benefit or succeed against the estate of any deceased person upon a case resting solely on his own unsupported testimony.

SELECTIONS.

THE ECCLESIASTICAL COURTS.

Supposing that I had exhausted the humorous phases of the law, I have been for several months cultivating a spirit of dullness and heaviness that has evoked praise from our English legal cousins. But these transatlantic friends must not complain at any breaking out again, like the last words of the late Dr. Baxter, for, in this instance, their own peculiar laws and law reports furnish the occasion.

I know of no more humorous reading than the reports of the ecclesiastical cases, as given in the columns of the Law Journal Reports by those facetious gentlemen, George H. Cooper and George Callaghan, Esquires, barristers at law. We have nothing like them among ourselves, owing to the infidel separation of church from state, which prevails to some extent in this country. Let it not be understood, however, that we are without the blessings of ecclesiastical councils. We have them, but they are a law unto themselves, and our law courts are forced to get on as well as they can without the presence or countenance of the clergy. Perhaps our immunity is not to be regretted, for, of all the assemblies of mankind upon the face of the earth, from the earliest days down to the present time, the most reckless and unregardful of the laws of God and man is an assembly of clergymen. An assembly of women is conservative in comparison. Even a moot court of school boys has more regard for the rules of evidence. And for ingenious malice, tricky evasions and a cruel spirit of rivalry, I imagine that nothing on earth affords a parallel. If I were a clergyman, and should have to be tried for any imaginable offence, I should prefer a tribunal of the Camanches, or even the Sioux, to one composed of my fellows, for the injustice