

REPORTS AND NOTES OF CASES.

Dominion of Canada.

SUPREME COURT.

Que.] THE KING v. GOSSELIN. [April 20.

*Criminal law—Evidence—Husband and wife—Competency of witness—“Communication”—Construction of statute—Privilege—Directions by legal adviser—Practice—Reference to Hansard debates—Method of interpretation.*

Under the provisions of the Canada Evidence Act, 1893, the husband or wife of a person charged with an indictable offence is not only a competent witness for or against the person accused, but may also be compelled to testify. MILLS, J., dissenting.

Evidence by the wife of the person accused of acts performed by her under directions of his counsel, sent to her by the accused to give the directions, is not a communication from the husband to his wife in respect of which the Canada Evidence Act forbids her to testify. MILLS, J., dissenting.

Per GIROUARD, J., dissenting: The communications between husband and wife contemplated by the Canada Evidence Act, 1893, may be *de verbo, de facto* or *de corpore*. Sexual intercourse is such a communication and in the case under appeal neither the evidence by the accused that blood-stains upon his clothing were caused by having such intercourse at a time when his wife was unwell, nor the testimony of his wife in contradiction of such statement as to her condition ought to have been received.

Per MILLS, J., dissenting: Under the provisions of the Canada Evidence Act, 1893, and its amendments, the husband or wife of an accused person is competent as a witness only on behalf of the accused and may not give testimony on the part of the Crown.

Per TASCHEREAU, C. J.; The report of debates in the House of Commons are not appropriate sources of information to assist in the interpretation of language used in a statute.

Appeal dismissed with costs.

Gibson and E. Roy, for appellants. Cannon, K.C., for respondent.

Que.] ST. LAURENT v. MERCIER. [April 29.

*Mining law—Overlapping claim—Renewal of application—Re-staking.*

In August, 1899, M. staked and received a grant for a placer claim which included part of an existing creek claim staked previously by W.