

which, so far as I know; takes us quite outside Roman or civil law. It is no doubt an excellent general principle to regard husband and wife as one; but is it not running it into the ground to hold, as the common law appears to do, that no criminal agreement to which they are the only parties can amount to the crime of conspiracy, 1 Hawk, P.C. c. 72, s. 8; because, forsooth, it takes two to conspire, and husband and wife are one? Is it not running it into the ground to hold, as was held in *Reg. v. Lord Mayor of London* (1886), 16 Q.B.D. 772, that because husband and wife are one, a libel on a wife, published by her husband, constitutes no offence; or to hold, as was held in *Wennhak v. Morgan* (1888), 20 Q.B.D. 635, that it does not constitute publication for a man to repeat a defamatory statement about another person to his own wife,—when I should imagine any sensible man would admit that in fact it is the worst kind of publication? And it seems especially inexcusable that such should be the law, seeing that it is held also to be the law, in *Wenham v. Ash* (1853), 13 C.B. 836, that to communicate to a wife words defamatory of her husband is a publication. And what are we to say of the still existing rule of the common law that a husband is liable for his wife's torts? He is jointly responsible with his wife to the person against whom she has committed the tort: *Wainford v. Heyl* (1875), L.R. 20 Eq. 321. No doubt there was some good reason for this rule before the Married Women's Property Acts, when a wife's property became on marriage virtually the property of her husband, except her separate estate in equity, her *paraphernalia*, and certain things secured to her under previous statutes. Now that the Married Women's Property Acts secure to a woman on marriage her property as statutory separate estate, what excuse is there for retaining the old rule, which is held nevertheless to be unaffected: *Seroka v. Kattenburg* (1880), 17 Q.B.D. 177, 179; *Earls v. Kingcote* (1900), L.R. 2 Ch. 585; *Beaumont v. Kaye*, [1904] 1 K.B. 292. In *Cuenod v. Leslie*, [1909] 1 K.B. 880, 889, Fletcher Moulton, L.J., expressed the opinion that the matter should be reviewed by the House of Lords, because, in his lordship's view, the present state of things is highly anomalous. It was different when a husband could say to his