

nothing to show want of consent or desertion—the question came up whether, under such circumstances, without any charge being made of cruelty, desertion or adultery, we should create a precedent which has never been established here or in England by dissolving the marriage tie *a vinculo*. In cases of desertion, separation has been granted, but a dissolution of the marriage tie has never been granted in England for anything less than adultery, and it has never been granted in this country either by the courts or by Parliament for any less cause.

HON. MR. POWER—The hon. gentleman stated that it is in evidence that the husband was not of age when the marriage took place. Will he point out where that is to be found?

HON. MR. KAULBACH—I think it is stated in some part of the report that they were both under age or it is alleged in the petition or the bill. Now, what are the facts of this case? This young woman, an intelligent girl, properly brought up and of respectable parentage, had been acquainted with this young man for a year and a-half. They had been intimately together in social life, and, as she said, he had courted her for a whole year. They agreed to be married, and fixed upon the place where the marriage was to take place three weeks before the event. They went together, by appointment, in the day time to this place—the town of Dundas, five or six miles from Hamilton—and there they were regularly married under license. They went by the street cars and returned in the same way. The understanding was that they were not then to live together, as the mother of the girl had to be appeased in some way. It seems she had some objection to the marriage. They intended fully to enter into the matrimonial estate and to live together as man and wife. The evidence on that point is clear and unqualified. She was asked by myself:

“Q. At that time, did you consider you were going to be married, or was it simply some little lark on your part?—A. It was not any lark. We both understood we wanted to be married.

“Q. And you went there with a serious intention of being married?—A. Yes.

“Q. And living as man and wife?—A. Yes.

“Q. Was there any understanding beforehand that you were not to live together as man and wife?—A. Nothing of that kind. Of course, I should never have married him had I known his circumstances—had I known that he was not in a position to keep a wife.

“Q. Was it understood you were to go back home and not live with him as your husband?—A. I understood I was going home for a while. He gave me to understand he was getting a good salary, and he told me the figures. Had I known he was not in such a position I would never have consented to this.”

They married, knowing all the consequences of the step they were taking, and she swears that she intended to be married and to discharge all the duties of a wife. Therefore, there can be no question about this being a marriage. Her evidence was not equally satisfactory throughout, because although she said plainly and unqualifiedly that her intention was to be married, she afterwards said there was no marriage. Expecting that the question would come up before us, I wished to ascertain whether she had consented to this marriage, and whether she had entered into it with the intention and expectation that it should be binding. I asked her: “Did you consider at the time you went into it that you were going to perform all the duties of a wife?” and she answers: “No,” in direct contradiction to what she had said before. She had considered the position in which her answers to those questions might place her, and she flatly contradicted her former statement. In another place she is asked: “Did he ever speak of your relations as husband and wife?” She says: “Yes.” And the examination continues:

“Q. In what way?—A. Nothing very particular. He said as soon as my mother was aware of it she would be agreeable.”

It shows that throughout this whole matter he was desirous of consummating the marriage, that she was evading this, and that she did not wish to communicate the fact of her marriage to her mother. He came to her house that day, according to agreement, in the evening, and he continued for a long time afterwards to visit the house. She was asked how long he remained there, after the marriage, coming to see her. She did not seem to know whether it was weeks or months, or how long he remained in Hamilton. Evidently she did not care sufficiently for him to ascertain what his movements were; her mind was changed. She found that he was not as wealthy as she had believed he was, and she got rid of him the best way she could. She made no pretence that she had endeavored to live with him, or that she had suggested to him the singular and unfortunate position in which she stood.