

said wife, instead of being a burden from mental and physical and moral imbecility, would have been a comfort and a helpmeet. The question, then, is, can the plaintiff, upon the facts set out in the complaint, maintain an action? The action is a novel one. With the exception of the case of *Hoard v. Peck*, 56 Barb. 202, which, in its most important aspects, resembles the one before us, we have been able to find no precedent in the English Common Law Courts or in the Courts of any of our states. It does not follow, however, because the case is new the action cannot be maintained. If a principle upon which to base an action exists, it can be no good objection that the case is a new one. It is contended for the defendants, though, that there is no principle of the common law upon which this action can be sustained, and that our own statutory law gives no such remedy as the plaintiff seeks in this action for the wrong done to him by the defendants, and that the novelty of the action, together with the silence of the elementary books on the subject-matter of the complaint, while not conclusive, furnishes strong countenance to their contention. It is claimed for the defendants that while, in the abstract, such facts as are stated in the complaint would make the parties charged guilty of a great moral wrong, there would be no legal liability incurred therefor. It was argued for the defendants that there was no legal obligation resting upon themselves not to sell the drug, as is alleged, to the plaintiff's wife, or upon the wife not to use it; that many of the ancient restrictions upon the rights of married women had been repealed by recent legisla-

tion, or modified by a more liberal judicial construction; that a married woman was ordinarily free to go where she would, and that the husband could not arbitrarily deprive her of her liberty, nor use violence against her under any circumstances, except in self-defence, and that if he could not restrain her locomotion and her will, he could not prevent her from buying the drug and using it; that the wife's duty to honour and obey her husband, to give to their children motherly care, to render all proper service in the household, and to give him her companionship and love, was a moral duty, but that they could not be enforced by any power of the law if the wife refused to discharge them. But, notwithstanding the claim of the plaintiff, we think this action rests upon a principle—a principle not new, but one sound and consistent. The principle is this: "Whoever does an injury to another is liable in damages to the extent of that injury. It matters not whether the injury is to the property, or the rights, or the reputation of another." Story, J., in *Dexter v. Spear*, 4 Mason, 115, Fed. Cas. No. 3,867. And also in the third book of Blackstone's Commentaries (chapter 8, p. 123) it is written: "Wherever the common law gives a right, or prohibits an injury, it also gives a remedy by action." A married woman still owes to her husband, notwithstanding her greatly improved legal status, the duty of companionship, and of rendering all such services in his home as her relations as wife and mother require of her. The husband, as a matter of law, is entitled to her time, her wages, her earnings, and the product of her labour, skill and