I ruled that putting the life in danger or causing a permanent injury to health as mentioned in sec. 25 of the above cited Act, merely applied to the offence contemplated in the second part of the section, namely that of causing or doing some bodily harm to an apprentice or servant, and not to the offence mentioned in the first part of the section, that of a husband neglecting to provide the necessary food for his wife.

The defendant thereupon entered upon his defence, and the jury returned a verdict of guilty.

At the request of the defendant I have reserved the case for the opinion of the Court of Queen's Bench on the following questions:—

1st. Was it necessary to allege in the indictment that by the refusal and neglect of the defendant to supply the necessary food, etc., to his wife, her life had been endangered or her health permanently injured?

2nd. Was it necessary to prove that the life of the defendant's wife had been endangered or her health permanently injured by his neglect to provide her with necessary food, etc., in the absence of any allegations to that effect in the indictment?

In the event of an affirmative answer to either of the above questions the verdict of guilty should be set aside, otherwise it should stand.

The defendant was admitted to bail, to appear at the next term of the Court of Queen's Bench holding criminal jurisdiction, and no sentence was pronounced.

(Signed), A. A. DORION.

Montreal, 17th June, 1884.

RAMSAY, J. [After reading the Reserved Case.] The effect of this decision is to overrule the case of the *Queen* v. *Maher*, reported 7 Leg. News, p. 83.

I trust it will not be considered that I am actuated by any personal feeling, in saying it is not desirable that rulings on statutes, at all events those which carry out the evident intention of the legislature, should be overturned, except for some very cogent reason. Here the principal reason appears to be that the late Chief Justice Harrison had somewhere said that he could not understand how the statute could be interpreted as I did in the case of Maher. This sort of rhetorical emphasis may mark the strength of the speaker's conviction, but it is not argument. I shall endeavour in my turn to show why I adhere to my ruling in the case of Maher, and I shall endeavour to leave the strength of my conviction to be deduced from the force of my reasons.

The proposition of the reserved case is that the "putting of the life in danger or causing a permanent injury to health" as mentioned in Section 25, 32 and 33 Vic. c. 20, merely applies to the offence contemplated in the second part of the section.

There is no such general rule of interpretation; in fact, the general rule is rather the other way. 1. The rule is that when the controlling words are in the same section, and particularly in the same sentence, as in this case, they are applicable to the whole sentence, unless there be some substantial reason for restraining them to a part. 2. In this case they are more applicable to the first part than to the second, for the offence of omission is, by its nature, less aggravated than a similar offence of commission. Thus it is palpably more serious to make an unlawful assault on an apprentice or servant than to neglect to provide him with his dinner. 3. All the analogous enactments of the statutes have controlling words of the nature of those of the section in question. I might particularize the section next that under consideration. 4. In all indictments under the common law for similar offences, the allegation that the privation did injury is essential, as Mr. Justice Taschereau has shown in his work on criminal law, vol. 1, p. 259, on the authority of the *Queen* v. *Rugg*, 12 Cox, 16. See also the *Queen* v. *Rylands*, 10 Cox, by which this view is also supported.

It is hardly necessary to enter on the question of the general reason for rejecting the ruling of the learned Chief Justice, for it is hardly pretended that the law ought to be as he has laid it down. Under such a law, a workman neglects to provide bread for the family dinner, nobody is much the worse, still he is liable to indictment, and he ought to be convicted, unless the jury is discharged in conscience from respecting the ruling of this court, owing to its untenable character.