

profond difference which exists, as to the nature of the prosecution in question, under section 242a as compared with section 242.

Section 242 had not to do at all with the negligence of the respondent with regard to making proper provision for his wife and family; it had only to do with the evil effects upon the health and life of the wife and family which might be produced by that negligence. But under section 242a negligence alone is made an offense. It is true that the Criminal Law is not to be used, as a general rule, for the enforcing of civil obligations; yet in the present case, it must necessarily have that effect. The section says:

“Every one is guilty of an offence and liable on summary conviction, to a fine of \$500, or to one year’s imprisonment, or both, who, as a husband or head of a family, is under a legal duty to provide necessaries for his wife or any children under 16 years of age, and who, if such wife or child is in destitute or necessitous circumstances, without lawful excuse, neglects or refuses to provide such necessaries”.

The provision of these necessaries is equally a civil obligation and, in the present instance, has been determined by the judgment in an action of separation condemning the respondent to pay for the support of the wife \$15 per month.

The judgment in question was given at the time when there was already a judgment ordering respondent’s father to pay \$10 a month, which judgment is still in process of execution. But the proof establishes that \$10 per month is absolutely insufficient for the needs of the complainant and her three children, and even the judgment under appeal admits that, saying that this sum ought to