

later. The Court held that they were bound to follow this old decision, and in doing so found the acts complained of did not constitute cruelty as defined in 1790, and the wife was held to be not entitled to alimony or any other relief.

The injustice of the whole principle can be expressed in no better language than that of the learned Chief Justice of Ontario: "I reluctantly agree with the disposition of this appeal which is proposed by my brother, Ferguson. I agree with him that we are bound by the authorities to hold that the respondent has not made a case entitling her to alimony; that the law should be as he states it to be in my opinion to be deplored, and is not in my judgment in accordance with modern views as to the relations between husband and wife. To withhold alimony unless the conduct of the husband is such as to lead to the conclusion that it has impaired, or that it will impair the physical health or the mentality of the wife, is to say that a husband may subject his wife daily and even hourly to such treatment as makes her life a veritable hell upon earth and she is without remedy if she is robust enough to suffer it all without impairment of her physical health or mentality."

English law has undergone a wide development in the last one hundred and thirty years and in no branch has it developed more than in that relating to the rights of married women. A decision scarcely older than the 1790 case goes so far as to say: "The husband both by law power and dominion over his wife, and may keep her by force within the bounds of duty; any may beat her, but not in a violent or cruel manner." Today, such conduct would not only give the wife a good ground for separation with alimony but it would constitute a criminal offence. We have only to go back half a century to find that a married woman could not hold property, make a will, sue to collect a debt or incur a liability, free from her husband; but now by virtue of legislation she enjoys the rights of citizenship possessed by male subjects, even to the franchise.

Yet with all this development the Legislature has not yet conferred on the married woman the right to have the