creasing the temptation to appeal. It may be said that litigants can so agree now. That is true, but they do not. Litigants are in a state of quarrel, and do not agree. Each is satisfied that what the one proposes is for the disadvantage of the other. The result is that the law should do them this kindness.

"A word or two on the history of the matter. By the law thirty-five years ago appeals at common law—that is, the law that dealt mainly with commercial cases and wrongs, were limited to writs of error for errors apparent on the record, new trials, for mistake of judge or jury—the appeal being only to the Court where the case was—and appeals from the judge at chambers to his Court. By the Common Law Procedure Act, appeals to a Court of Appeal were authorized in special cases, and from the granting and refusing of new trials on matters of law. This was quite right. The Court of Appeal was the Exchequer Chamber. Its sittings were less than eight weeks in a year. As one Division of the Court of Appeal now gives the whole of its time to Common law appeals, it will be seen how they must have increased. That arose in this way. When the Judicature Acts passed it became necessary to make rules applicable to the common law cases and also to the equity cases. In equity everything had been appealable, with some reason or justification, because the dispute was generally for a large amount. Equity had none of the trumpery cases which went to the Common Law Courts. There was a committee of judges to frame the rules, of whom the late Master of the Rolls was the head. He brought his equity practice to bear on the matter, and being, I will only say, a very strong man, had his way, and so appeals were allowed in common law cases contrary to the old practice, and where the amount in dispute did not justify them. A right of appeal does not exist in the nature of things. It is not a natural right. I am by no means sure that it would not be better to have no appeal at all. But supposing that one appeal should be allowed, it cannot be said that it must be right to have two or three. Now, the Chancellor's bill did not refuse a first appeal, even in small matters.

"I cannot but think that the judges were right in recommending a limitation of the power of appeal in such small matters. It would be a mercy to the suitors, and remove a scandal from the law. This, I believe, from an article that appeared in the *Times* three or four days ago, is also your opinion."

NOTES OF CASES.

COURT OF QUEEN'S BENCH.

MONTREAL, September 24, 1884.

Before DORION, C.J., MONK, RAMSAY, CROSS, and BABY, JJ.

THE QUEEN v. JOHN SCOTT.

32-33 *Vic. c.* 20, *s.* 25—*Refusal of Husband to provide necessary food for wife — Indictment—Evidence.*

In an indictment under 32-33 *Vic. c.* 20, *s.* 25, *it is not necessary to allege 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; nor is it necessary to make proof to that effect.*

The following case had been reserved by the Chief Justice:—

The defendant John Scott was tried before me on the 10th of June instant (1884), on a charge under the 32 & 33 Vic. ch. 20, sec. 25, of having refused and neglected to provide necessary food, clothing and lodging for his wife, Elizabeth McDougall, on an indictment in the following terms:—"That John Scott, on the 19th day of April, in the year of our Lord 1883, at the city of Montreal, in the district of Montreal, then being the husband of Elizabeth McDougall, and then being legally liable as her husband to provide for the said Elizabeth McDougall, his wife, necessary food, clothing and lodging, unlawfully, willfully and without lawful excuse, did refuse and neglect to provide the same."

After the case for the prosecution had been closed, the counsel for the defendant submitted to the court that there was no case to go to the jury, inasmuch as it was not alleged in the indictment, and it had not been proved, that by the neglect of the defendant to provide food, etc., for his wife, the said Elizabeth McDougall, her life had been endangered or her health was likely to be permanently injured.