

failing to defend the suit in the court of New York, admitted that his wife was justified in applying for a divorce. If he had been innocent, can we imagine that he would have allowed the case to go unopposed? Would he not have used every means in his power to protest his innocence and relieve his wife from the illusion that he was unfaithful to her? He does nothing of the kind; he remains away from her, and allows her to get a divorce on the ground of his adultery with another woman, and the judgment in that case is binding on us. Since 1883 he has taken no action in this matter until he comes forward at this late hour and asks this House to dissolve his marriage and to stamp the respondent with infamy and disgrace.

HON. MR. MCKAY—She has married again.

HON. MR. KAULBACH—You say, if you adopt this report, that she is not married to the man with whom she is now living, and with whom she has been living since 1883. The divorce was obtained from a court of competent jurisdiction for a cause which we would consider sufficient here, and he having by his negligence allowed his wife to get a divorce on that ground, it would be unwise for us to sever the tie that exists between the parties.

HON. MR. MACDONALD (B. C.)—We have no evidence before us of what was done in the divorce court in the United States when the wife of the petitioner obtained a divorce. We have evidence to show that this petitioner could not defend that action. He was a poor man at the time, living three thousand miles away, and after he was first told that his wife had been guilty of indiscretions he wrote to her asking her to come to him. She replied that she was married when she was very young, and did not know her own mind, and that she had no more affection for him. He was not satisfied to let it stop even there. Her father was with him at Vancouver, and this petitioner gave him money to return to Ontario, and see why his wife would not come to him. What more could the man have done? After the father left for Ontario he heard no more of him or from his wife. After spending all this money, he had not the means to go to New York and defend the divorce case. The only ground for opposing this Bill is

that the petitioner had a suspicion in his mind that the child that was born after his departure from Ontario was not his, but that suspicion was not confirmed at the time he forwarded the money, and could not be construed into a condonation of the offence. Condonation must be a forgiveness, a restoring of the wife to where she was before in his affections: but there was nothing of that kind. There was a mere suspicion, and the money was sent before her guilt was established. As the question of condonation has been raised, I will read from Dixon on Divorce what condonation is:

“Condonation, as applied to matrimonial causes, had its origin in the Ecclesiastical courts, and it is obvious, on an examination of the cases subsequent to the Divorce Act, that it still bears its original signification. The whole doctrine is a structure of the courts, founded on the necessities of the case. It means a blotting out of the offence, so as to restore the offending party to the position which he or she occupied before the offence was committed. It is a conditional forgiveness on a full knowledge of all antecedent guilt, the condition being that the offence shall not be repeated. In order to found it, there must be a complete knowledge of all the adulterous connection, and a condonation subsequent to it. In other words, it is ‘forgiveness of a conjugal offence, with a full knowledge of all the circumstances,’ *i. e.*, those relating to the guilt of the erring party.

“It must be marked by a return to matrimonial cohabitation. It is, of course, in the power of the party to annex a condition precedent to an offer of condonation. If this condition is not complied with there is no condonation of the offence, and it cannot afterwards be pleaded in a suit in which the offence is charged.”

But even if he had condoned her first offence, he did not condone her second offence of getting married.

HON. MR. McMILLAN—What was the first offence? Was it that child?

HON. MR. READ—Yes.

HON. MR. MACDONALD (B. C.)—Supposing he had condoned the first offence, he did not forgive her for her marriage with another man, with whom she is now living in this Province.

HON. MR. McMILLAN—Did the petitioner establish that the child was really not his?

HON. MR. MACDONALD (B. C.)—He did not establish it.

HON. MR. McMILLAN—He certainly did not in the evidence. We know the period for which a woman should carry a child is two hundred and eighty days, and as I