

the wife is a competent witness against her husband—

“For the purpose of exhibiting articles of the peace against him, for assisting at a rape committed upon her, for assault and battery upon her, for maliciously shooting, for attempting to poison her, and for a conspiracy to carry her away.”

These were substantially the reasons that were offered by the judge who differed from the majority of the court in holding that the wife was a competent witness, and he concluded with these words :—

“I do not think that we ought, by declaring the wife to be incompetent, to render the very salutary act under which the prisoner was convicted ‘vain and useless.’”

In giving judgment the very learned Chief Justice of the Court of Appeal said—

“I am unable to satisfy myself that any of these authorities warrant my holding this case to fall within the exceptions to the general rule.”

He referred to this as being a case of non-feasance—failing to do that which the law required him to do—and not an act of doing on the part of the person charged. “As a matter of opinion,” he continues, “it might be wiser to allow the evidence ;” and this is the point where, I think, I am strongly sustained in moving in this matter —“but, as Lord Blackburn said on this same point ‘that is a matter for the Legislature and not for us.’”

That is the ground upon which I move. At present the law is that the wife is not admissible as a witness, the majority of the court held that she is not, and it is to enable her to be a witness that this bill is proposed, the case being exceptional and one involving matters peculiarly and specially within her knowledge. I may say that I had communication with the three learned gentlemen who occupy the highest places in the judiciary of Ontario—Chief Justice Wilson, Chief Justice Haggarty and Chief Justice Cameron—and they all think the measure a desirable and a salutary one. I think it is in itself sufficient to commend the measure to the favorable consideration of every member of the Senate, and I am not inconsistent in moving it as my hon. friend from Halifax would seem to indicate by his very emphatic “hear, hear,” because it is purely an exceptional case, and entirely out of the

line of cases that he would desire to prevent the evidence of the wife being given in.

HON. MR. ALMON—I move that the Bill be not now read the second time, but that it be read this day three months. This is a bill that revolts against the laws of God and the feelings of human kind. The law of God is that those whom God hath joined together no man shall put asunder. To compel a woman to give evidence against her husband is a breach of that law, because by doing so you separate them. Can they live together after she has given evidence against her husband? Does not every feeling of manhood revolt against the wife being obliged to give evidence against the man she has vowed to love, honor and obey? Are we to pass such a measure simply because Chief Justice So-and-so, and a late Judge of an inferior court here, tell us that instances have occurred in which such a thing is right? I say no, that we should not go against the law of God under any circumstances. We have already passed a law that if, where the Scott Act is in operation, a man sells a glass of cider, and the wife sees it, she shall be a compellable witness against her husband. That was due to the fanaticism of the moment, but that we, in cold blood, should pass a bill like this is something which cannot meet with my approval.

HON. MR. KAULBACH—Although I am not quite in favor of the Bill, I am opposed to the amendment. It is evident that there is a civil remedy against a person who fails to provide for his wife and family. The wife can claim support, and take action to have some person appointed to look after the persons who have been neglected, but I certainly cannot favor a measure which compels the wife to give evidence against her husband. I think it is quite right that the wife shall have permission to do so in such cases, but to compel her to be a witness is another matter. If she has really been neglected, and the husband has forgotten the ties which bind him to his wife and family, she no doubt would give evidence, but to force her to do so, it seems to me, is going a little too far. I agree with a great deal that has fallen from my hon. friend from Halifax, as to the tendency of