

commended would not be a degradation of the sanctity of the marriage tie—that in each case has already occurred. The commission of a wrong cannot be prevented by denying redress to the injured party—divorce is not a disease, but a remedy for a disease.

6. DEFENCES IN DIVORCE CASES.

The defences to an application for divorce or the grounds for its rejection are practically the same throughout the British Empire and the United States. Those recognised at Ottawa are: 1. Denial of facts alleged. 2. Connivance. 3. Condonation. 4. Collusion. 5. Recrimination. 6. No or void marriage. 7. *Non compos mentis* at the time of commission of the act of adultery. 8. Delay. 9. Cruelty, desertion, or wilful separation without excuse before the alleged adultery, or wilful neglect or misconduct which has conduced to the adultery complained of.

Connivance is the consent or indifference of the applicant to the commission of the acts constituting the cause of divorce. It occurs before the misconduct.

Condonation is forgiveness, either express or implied, of a matrimonial offence constituting the cause of divorce. It occurs after the misconduct. The mere resumption of sexual intercourse is not absolutely conclusive as implied condonation by a wife. If the condonation is on the condition that no further offence occurs, and there is a repetition such repetition nullifies the condonation.

Collusion is an agreement between the parties that one of them shall commit or appear to have committed acts constituting a cause of divorce, or that facts shall be suppressed, or that no defence shall be entered, for the purpose of enabling the other to obtain a divorce. The practice in regard to this subject appears to be a little too strict. There would appear to be no injustice in the parties agreeing as to the conduct of the application if such an agreement is honestly and properly made, in a suit in which there is previously an adequate and good ground for divorce. The Senate has adopted the practice of admitting in evidence affidavits of the guilty party admitting the facts complained of provided the absence of collusion is amply proved by other evidence.

Recrimination is a showing by the defendant that the plaintiff has committed an act which is a cause of divorce. Adultery is the most frequent example at present. The practice is to re-