

COMMENTS ON CURRENT ENGLISH DECISIONS.

The Law Reports for June comprise (1891) 1 Q.B., pp. 669-799, and (1891) 2 Ch., pp. 1-185.

HUSBAND AND WIFE—AUTHORITY OF HUSBAND TO DEPRIVE WIFE OF LIBERTY—REFUSAL OF WIFE TO LIVE WITH HUSBAND.

The Queen v. Jackson (1891), 1 Q.B. 671, is the now celebrated case in which the right of a husband to seize his wife and detain her in his custody was discussed by the Court of Appeal (Lord Halsbury, L.C., Lord Esher, M.R., and Fry, L.J.). The facts of the case were that the husband and wife were married in 1887, and within five days afterwards the husband went to New Zealand, it then being intended that the wife would follow him as soon as he got settled. During his absence the wife went to live with her sisters and brother-in-law. She wrote to her husband to return to England, which he did, but on his return she refused to live with him. He obtained a decree for the restitution of conjugal rights in the Matrimonial Court, which she refused to obey. The husband then took two other men and seized his wife on a Sunday as she came out of church, and carried her off in a carriage to his own house, where he detained her. A writ of *habeas corpus* was granted at the instance of the wife directed to the husband, whose return to the writ embodied the above facts, and was held to be no answer in law, and the wife was ordered to be set at liberty. The *dicta* in the books as to the power of a husband over the person of his wife, which lay down that a husband may not only confine his wife in custody, but also administer corporal castigation, were denied to be a correct statement of the law, and the result of this decision would appear to be that a husband who desires to retain the society of his wife must rely on moral suasion, and that the law will not uphold him in any physical restraint of her person, or in the infliction of any corporal chastisement. The case has raised a good deal of discussion, some apparently thinking the proper and necessary authority of the husband over his wife is undermined and destroyed; but where a wife's society can only be secured by the exercise of such acts as Mr. Jackson found necessary to adopt, we do not think many husbands will think her society is worth having at all. Where husband and wife cannot live together except on the terms of the husband becoming the wife's gaoler, it is evident that matters have reached such a point that it is better for them to live apart, and it would not be desirable that the law should sanction any compulsory action on the part of the husband to constrain his wife to live with him against her will. The paucity of actual authority to be found in the books on the subject is pretty conclusive evidence that moral and not legal suasion has been sufficient in the past to maintain the marital relationship, and those who are alarmed at this decision have not much foundation for their fears.

ELECTION—STATUTE MAKING ELECTION VALID—VOID ELECTION—DISQUALIFIED PERSON ACTING—PENALTY FOR ACTING WHEN DISQUALIFIED.

De Souza v. Cobden (1891), 1 Q.B. 687, is a sort of sequel to *Hope v. Sandhurst*, 23 Q.B.D. 79, in which it was decided that women are not eligible for election