not forbidden, *ibid.* p. 52; *vide etiam* p. 57, *in fine* and S. 6, p. 59."

"Consent of parents, licenses, etc., etc., though all of some or them are everywhere necessary to the legality of a marriage, are nowhere, under English or American law, necessary to the validity of a marriage. They are not so by the pre-existing law, and no statute has made them so." Stewart. Marriage and Divorce, sec. 91 and 97, and authorities in notes 6 and 7. *Vide* Bishop, Marriage and Divorce, 6th ed., vols. 1, sec. 283 and 284. How statutes providing formalities are to be interpreted, *vide ibid.* sec. 293, 294 Rex. *vs.* Birmingham, 8 B. and C. 29; *vide etiam* opinion of Sewell, Attorney General of Jamaica, in Mr. Crewe's case, as marriage not being void when solemnized without a license, even when statutes made it penal for the clergyman to do so. *See* Lawles *vs.* Chamberlain, 18 Ontario Reports, 296. Macqueen, House of Lords Practice, page 599. As to whether Lord Hardwick's Act 26 George II., chap. 33, is in force in Ontario, *Query*, Regina *vs.* Seekin, 14 U. C. Q. B. 604, *semble* it is not. Regina *vs.* Bell, 15 U. C. Q. B., 287. *Semble* that in any case section 11 of that Act is not in force in this country, and that marriage was not void. Regina *vs.* Roblin, 21 U. C. Q. B. 352. *Note.*—The marriage in Regina *vs.* Roblin was afterwards dissolved by the Parliament of Canada on the ground of adultery. Stevenson's Divorce, 32 and 33 Vic., chap. 75, in statutes of 1870, P. V.

Note.—The case of Scott, falsely called Sebright *vs.* Sebright (12 P. O., 21), cited by counsel for petitioner, is not in point. There the marriage was held a nullity on the ground of want of consent, the form having been gone through under gross fraud and violence, and then if they did not mean marriage, there would be no marriage to dissolve.

Consummation is not necessary to the validity of a marriage. The general maxim, "*Consensus non concubitus facit matrimonium*," Bishop's Marriage and Divorce, 6th edition, vol. 1, sec. 228, and authorities there cited. This is only in the absence of a celebration that the necessity of a consummation can be considered. Stewart, Marriageand Divorce, sec. 102. The above applies to marriage contract *per verba de futuro* "but in general no consummation is necessary to the validity of a marriage whether it be formed by celebration or by mere consent." "*Consensus non concubitus facit matrimonium.*" Thus a marriage is valid though one of the parties absolutely refused intercourse or abandoned the other at once. * * * Sexual intercourse is, however, a marriage right, and gives rise to various questions." Stewart, s. 104, and authorities in notes thereto (24th March, 1890).

The Ontario Statute applying to marriage is Revised Statutes of Ontario (1887), chapter 181, containing same provisions as Revised Statutes of Ontario, 1887, chapter 124. It contains no provisions for nullity of a marriage if its requirements are not complied with. The license in this case (Exhibit 1) is the license referred to in Section 2. The Parliament of Canada has never granted any divorce except on grounds of adultery. The Stevenson case 32-33 Vic. chap. 75 (1869), to be found at page V, Statutes of 1870, and the Lavelle case, 50–51 Vict., chap. 128 (1887), are no exceptions to this rule. In the former adultery is specifically alleged in the preamble; in the latter, in which I was chairman of the committee, though the objectionable words "bigamy and adultery" were struck out, the preamble alleges (I wish hon. gentlemen to pay particular attention to this) that the respondent has since been living and cohabiting with a third person." But in both cases the adultery was made the ostensible ground, the other circumstances being really the effective grounds of the Bill. I am opposed to the granting of divorce on the grounds contained in this Bill; yet the question whether this Bill should pass is one purely of public policy. The Senate has undoubtedly power to grant a divorce for any case whatever, and is not bound by any precedent other than as a *ratio decidendi.*

HON. MR. O'DONOHOE—If this had been an ordinary case of divorce I should not have a word to say *pro* or *con*, but it seems to me that this is not an ordinary case, and I felt rather surprised, on reading the report, that after such evidence had been adduced there was anything more to be said about the matter. Clearly there is no need of going into the preliminaries that led up to that marriage. The marriage was solemnized — perfectly solemnized. The petitioner states how it was solemnized, and she states also that they courted long before it was solemnized, and that