

of the child, which necessarily involved adultery with some person, according to his view of the case. The claim is, that although there might not have been any ground for divorce in the first instance, that with regard to the subsequent acts of adultery—that is to say, living as the wife of another man—it is clearly a case for relief. But it ignores altogether the preceding circumstances. These circumstances are the delay in taking action with reference to the matter in regard to the birth of this child, which he assumes to have involved an act of adultery. The delay has taken place since the 1st day of January, 1882, when he admits that he first formed the conclusion that that child was not his. I think he is under a mistake as regards that. At all events, that was his impression, and he acted upon that impression, and I assume that it is a mistake, because he fixed the date he left himself as April, 1881, and he got the information of the birth of the child by letters which came over the plains, and which necessarily took some time. I need not go into the matter further than to say that the child may have been, and probably was, within the proper limit. It is stated in the evidence—on what authority I do not know—that the child was born nine months and two weeks after the petitioner's separation from his wife. Under these circumstances, there is a doubt that the child is the child of the husband. Two years afterwards he heard that his wife was living an irregular life, and he then sent her \$500; and there is some importance attached to this by the petitioner himself, from the fact that there was a mistake in the evidence when the question was asked him, was this before he heard of the birth of the child; he said yes. When he read over his evidence he desired to correct that answer, and the House will see by referring to the minutes that in the attestation of the minutes at the very bottom of his deposition he gave us his corrected answer, which was that it was not before, but after. After all these facts, he sleeps upon the matter and lets it go until the proceedings are taken in the court of New York. He does not defend the proceedings against himself, and we can only assume that the proceedings were taken and the divorce granted in consequence of the application being unopposed. The question narrows itself down to this: Was this delay and the subsequent pro-

ceeding in any way a condonation, or, can it be construed into collusion or connivance between the parties? The rule as regards delay is laid down very clearly by authority. It is laid down in Dixon's "Law and Practice of Divorce," page 206, where it is stated:

"Unreasonable delay is another ground for the exercise of the discretion of the court. It is such as makes it appear that the petitioner is insensible to the loss of his wife, and it might also be said to be equivalent to condonation. Again, it has been spoken of as meaning culpable delay, somewhat in the nature of connivance or acquiescence. What delay is unreasonable or capable of explanation is purely a question of fact, and will be decided solely upon the evidence."

Then it is laid down in MacQueen's Law of Husband and Wife that a delay of two years, after knowledge of all the facts, requires explanation. It is also laid down in the same work that a husband may still be guilty of desertion so as to connive at her committing adultery even though he supports the wife while absent from her. On the same page it says, where there has been no bargain or consent, absence may constitute desertion, even though an allowance has been made. The authorities are very strong upon that point, and the reason of it is stated here in larger form:

"A husband cannot neglect and throw aside his wife and afterwards, if she is unfaithful to him, obtain a divorce on the ground of her infidelity. If chastity be the duty of the wife, protection is no less the duty of the husband. The wife has a right to the comfort and support of her husband's society, the security of his house and name, and his protection, as far as circumstances permit. If he falls short of this he is not wholly blameless if she fall, and though not justifying her fall, he has so far compromised himself as to forfeit his claim for a divorce."

These are plain principles, upon which, I fancy, there will be no difference of opinion in this House. They are founded upon reason, because a husband may, by living away from his wife and keeping away from her, place her in the position that when she is neglected she cannot be made responsible if she does fall; and it is a protection to the bond of marriage between the parties in itself, that if a husband acts so, and waits for years and years, he need not afterwards come to this court for relief. The petitioner says that, in the year 1883, he wrote to his wife and informed her that if she did not come at once and live with him that that was the last she should ever see of him. So it seems to have been a somewhat mutual