Queensland

Parliamentary Debates
[Hansard]

Legislative Assembly

WEDNESDAY, 3 JULY 1872

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LEGISLATIVE ASSEMBLY.

Wednesday, 3 *July*, 1872.

Common Law Process Act Amendment Bill.—Savings Bank Bill.—Gold Duty Act Amendment Bill.—Married Women's Property Bill.

COMMON LAW PROCESS ACT AMENDMENT BILL.

The ATTORNEY-GENERAL moved—

That the Bill be now read a third time.

The motion was agreed to, and the Bill was ordered to be returned to the Legislative Council with the usual message.

SAVINGS BANK BILL.

The COLONIAL TREASURER moved—

That the Speaker leave the chair, and the House go into Committee for the further consideration of the Bill.

Clause 1 was amended, by which the interest on deposits should be—

"not exceeding in the whole the sum of one hundred pounds at the rate of five pounds per centum per annum and on deposits not exceeding in the whole the sum of two hundred pounds at the rate of five pounds per centum per annum on one hundred pounds part thereof and at the rate of four pounds per centum per annum on the residue on deposits exceeding the sum of two hundred pounds but not exceeding in the whole the sum of five hundred pounds at the rate of four pounds per centum per annum on two hundred pounds part thereof and at the rate of two pounds ten shillings per centum per annum on the residue Provided that on deposits exceeding the sum of five hundred pounds no interest shall be payable in respect of the excess of such deposit over five hundred pounds and interest shall only be calculated on every complete sum of one pound and every multiple thereof."

Clause 5 was amended by making the Bill come into operation on 1st January, 1873.

The House resumed, and the Chairman reported the Bill with amendments.

The COLONIAL TREASURER moved—

That the report be adopted.

Agreed to.

GOLD DUTY ACT AMENDMENT BILL.

The COLONIAL TREASURER moved—

That the Bill be read a second time.

Mr. MILES said he should be glad if the honorable member would postpone the second reading of the Bill, as there were several honorable members representing gold fields who were absent. Of course, if the honorable member did not consent to the proposition, it would be utterly useless for him to offer any opposition to the Bill.

Mr. FERRETT thought it was not desirable that the second reading of that or any measure should be postponed for the reasons adduced by the honorable member for Maranoa; for, if he recollected rightly, that honorable member was himself absent when a very important measure—the Electoral Districts Bill—was before the House.

Dr. O'DOHERTY thought that there would scarcely be any advantage in postponing the second reading of the Bill, as to his recollection it had been pretty well debated in the House on former occasions; and, as far as he could understand it, the Bill, like the one they had just passed, was a compromise between the opinions of different honorable members on the subject.

Mr. MOREHEAD wished to remind the honorable member for Maranoa that, after a most thrilling speech made by the honorable member for Gympie on the Electoral Districts Bill, that honorable member had gone to his constituents, had received from them a vote of confidence, and permission to absent himself from the House for the rest of the session; so that if the second reading of the Bill now before the House was to be postponed until that honorable member was present, it would be delayed till next session.

Mr. HANDY was in favor of the suggestion made by the honorable member for Maranoa, as then time would be allowed to honorable members to ascertain the opinion of their constituents on the subject.

Mr. HEMMANT thought the honorable member for Maranoa should adduce some better reason for the postponement, as he considered that because certain honorable members chose to stop away, it was no reason that the business of the House should be disarranged, and that the Government should agree to such a proposition as that made by the honorable member.

The COLONIAL SECRETARY said there was also another reason why the second reading should not be postponed, which was, that if the honorable members who were now absent were present, it would not make the slightest difference, as the Bill would be carried.

Mr. GRAHAM said that although honorable members who represented the mining districts were not present, he thought that if they were there, they would be able to lead the House to the conclusion that the gold duty should be abolished altogether. It had been admitted that the principle of the tax was an unfair one, and one that the diggers should not be called upon to pay. He knew that in his own district, where there was generally a population of 200 or 300 gold-miners, not only the whole of the expense of governing those gold fields was paid by the miners' rights, business licenses, &c., but also the salary of the police magistrate who acted as commissioner; and that the money derived from the gold duty was a clear profit to the revenue. Although he should not object to the second reading of the Bill, he intended to move an amendment to the second clause, by which the duty would be abolished altogether.

The motion was carried.

The COLONIAL TREASURER moved—

That the Speaker leave the chair, and the House resolve itself into a Committee of the Whole, to consider the Bill.

The motion was carried, and the House was put into committee.

The House resumed, and the Bill, with amendments, was reported to the House.

The COLONIAL TREASURER moved—

That the Report of the Committee be adopted.

Agreed to.

MARRIED WOMEN'S PROPERTY BILL.

The ATTORNEY-GENERAL moved—

That this Bill be now read a second time.

Mr. THORN said that, like the Savings Bank Bill, he had opposed the Bill now brought forward when it was last before the

House, and he intended to oppose it on the present occasion. He believed that it was a transcript of an Act passed in England—so far at least as he was able to judge; but he contended that, however much it might have been required there, England and the colonies were two different places; and that what might be a very useful measure in England might not be so here, where there was such a sparse and scattered population. When they came to consider that there were already two Acts in force in the colony for giving women protection, one of which was the 28th Victoria, the Matrimonial Causes Jurisdiction Act. Under that Act a woman might acquire property and hold it; and seeing that that was the case, he thought that there was no earthly necessity for passing such a measure as that now proposed, and one which must be fraught with so many bad consequences. He believed there were some other Queensland Acts by which married women could hold property, but he could not think of them just then. He would, however, read a clause from the one which he had mentioned, to shew there was no necessity for passing another Bill:—

"XI. A wife deserted by her husband may at any time after such desertion apply to a police magistrate or if resident in the country to justices in petty sessions or in either case to the judge ordinary or to the court for an order to protect any money or property she may have acquired or may acquire by her own lawful industry and any money or property which she may have become possessed of or may become possessed of after such desertion against her husband or his creditors or any person claiming under him and such magistrate or justices or judge or court if satisfied of the fact of such desertion and that the same was without reasonable cause and that the wife is maintaining herself by her own industry or property may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion from her husband and all creditors and persons claiming under him and such earnings and property shall belong to the wife as if she were a *femme sole*."

He should most decidedly vote against the Bill, as he considered it was unnecessary. There was no doubt that, by the law at present, there were loopholes left by which honest men were defrauded; but, if the present Bill was passed, there would be another loophole, and no one would know who was who, and what was what. If the Bill was passed, there should be some kind of registration kept, something like the Trade Circular, so that the public might know all cases in which bills of sale or marriage settlements were made, as, without that, the honest man would be defrauded more than he could already be.

Mr. HEMMANT said he should move as an amendment, that the word "now" be omitted, and that the words "this day six months" be inserted in lieu thereof. He thought a Bill of that kind certainly deserved some explanation from the honorable gentleman who introduced it, and he certainly had some suspicion of it. He thought it was not needed, as they did not find existing in the colony, cases of hardship and cruelty similar to those in England. He objected also to pass any measure which was likely to create or cause discord between man and wife. Now, by the proposed Bill—

"either party may apply by summons or motion in a summary way either to a judge of the Supreme Court in chambers or on circuit or (irrespective of the value of the property) to the judge of the district court of the district in which either party resides and thereupon the judge may make such order direct such inquiry and award such costs as he shall think fit."

He was not aware whether that was a new provision or not, but he thought that it was not a very desirable one to have introduced into the laws of the colony, and, in fact, that there was no necessity for the Bill at all.

Mr. WIENHOLT trusted the House would reject the Bill, as he thought it was an extremely bad measure, and one not at all called for; in fact, it was a bad style of legislation that they were drifting into, as it was extremely undesirable that they should raise two interests where there should be only one, and when he said that, he said it more for the sake of the woman than of the man. The Bill would have the effect of making woman independent of man, and for that reason it was extremely bad. It was by no means desirable in that respect; and, in another, it was objectionable because it would be creating the means of defrauding the public. For instance, an unscrupulous man, by the Bill, could prevent his creditors from getting their due—there was no doubt of that, as a man would only have to use his wife's name in various ways to carry out any fraudulent intentions. Again, he thought it was not desirable that a wife should be allowed to take a policy on her husband's life—that would be a most dangerous power to give her—and, taking the whole Bill, he thought it was a piece of legislation they could well do without. There might be a few cases where women were ill-used by the husband, but those were cases that would not be touched by the Bill. He meant to say that if a man was a brute, he would ill-treat his wife, and get her money away from her whether the Bill passed or not. He contended that in passing a Bill of that sort they were educating women to imagine that they were independent of their husbands; and, although that might have no practical effect upon the present generation, yet, if the Bill was passed, it would appear hereafter that the women were entirely independent of the men. He should oppose the Bill.

Mr. FYFE thought the honorable gentleman who had just spoken could scarcely be a married man, or he would not have spoken as he had done, as husbands were very often glad to accept the advice of their wives. He thought that women should be secured, not only for their own sakes but for that of their

children. He had lately read a speech by that great French statesman, Victor Hugo, in which he spoke of women as being "half of the human race;" and if that was the case, surely they should be equally legislated for with man. He considered that the Bill now before them was of great importance, and one which he believed any honorable member who looked forward to the future would be glad to support, and one certainly which he would like to see passed. He thought that the House should legislate for wives and children, as much as for men, as the laws of humanity were far superior to the laws of property. That was a principle involved in politics which they could not get over, and which was the basis and superstructure of our laws.

Dr. O'DOHERTY said he simply rose to protest against a Bill of such importance as the one now before the House being introduced in the way it had been, without a word of explanation from the honorable gentleman who introduced it, or any reason being given why the House should pass it. The silence of that honorable gentleman might be perhaps attributed to the fact that he was a bachelor, and although introducing the Bill, entertained the same opinions as those expressed by the honorable member for Western Downs. He certainly thought that it was most extraordinary that with a Bill of that kind the introducer should not have said one word about the grounds on which it was brought forward. Until he heard some good reasons why the Bill had been introduced he should oppose the second reading.

Mr. MOREHEAD said, if he was not mistaken, he thought that the honorable the Attorney-General, in introducing the Bill at the commencement of the session two months ago, had explained the general principles of it. He was himself bound to support the amendment of the honorable member for East Moreton, that the Bill should be read a second time that day six months; and without wishing to throw any discredit upon the intentions of the honorable gentleman who had introduced the Bill, he thought it could only have been drawn up by some vicious old bachelor. He quite agreed with the remarks which had been made by the honorable member for Western Downs, and he thought that if the Bill was carried, it would place too much power in the hands of the wife.

Mr. LILLEY: No, no!

The COLONIAL SECRETARY: No! What does the honorable member for the Mitchell know about wives?

Mr. MOREHEAD might not know much of them, it was true; but, at the same time, he contended that the Bill would place too much power in their hands, and that it savored of a morbid sickening sentimentality, and was pandering to the opinions of a set of so-called philanthropists who were always talking about women being ill-treated. Now, he did not think that women were so very badly treated, and, if they were, they had plenty of redress. He, for one, would not give any of the powers to women which were proposed by the Bill—either that of insuring a husband's life, or of applying to their own use all the funds belonging to him. It was well known that men were ill sometimes, and had to depend upon the earnings of their wives; but if a woman was allowed to insure her husband's life, she might let him die in such a case. He should oppose the second reading of the Bill.

Mr. J. SCOTT said that, in spite of the opposition which had been shewn to the Bill by several of the unmarried members of that House, he intended to support the second reading. The honorable the Attorney-General had not gone into the merits of the Bill, on the present occasion, although the honorable member had done so when he first introduced it. There were two or three obscurities in it which he would like to have explained by the honorable member, when he replied. They had just passed a Savings Bank Bill, and he noticed that, in the second clause of that now before them, it was stated that deposits in Savings Banks, by married women, were to be deemed her separate property. Now, he wished to know whether any woman, having a deposit in the Savings Bank at the time of the passing of the Bill, could claim it, or would have to withdraw it and re-deposit it? Again, in clause 6, it was stated that any personal property, not exceeding £200, coming to a married woman, was to be her own: now, did that mean that anything over £200 would go to someone else, or that it must be exactly of the value of £200, or what?

Mr. THORN said that, when he had last addressed the House, he had quoted from the Matrimonial Causes Jurisdiction Act; but he had since found another Act for the protection of women—it was the Act for the maintenance of deserted wives and children, 22 Vic., No. 6. He would read a clause from it, as follows:—

"A wife deserted by her husband may at any time after such desertion apply *ex parte* to the Supreme Court or to any judge thereof for an order to protect any personal property which she may acquire after such desertion against her husband or his creditors or any person claiming under him and such order shall in all cases be made on such court or judge being satisfied by affidavit of the fact of such desertion and that the same was without reasonable cause and shall contain a statement of the day of such desertion and shall have the effect of protecting all personal property acquired by such wife at any time after such desertion from her husband and his creditors and all persons claiming under him and while such order shall continue in force such wife shall with respect to such personal property as aforesaid and to all contracts in reference thereto and to all other contracts entered into by her after the making of such order and not relating to real estate be regarded in all respects as a *femme sole* and if the husband or any of his creditors or any

person claiming under him shall without the permission of the wife seize take or hold possession of any property protected as aforesaid such wife is hereby empowered to sue such husband creditor or other person for the restoration of the specific property seized taken or held as aforesaid and to recover in such suit in the event of such property not being restored a sum equal to double the value of the same with double costs of suit."

Now, he thought that, as they had already two Acts for the protection of married women, there was no occasion for the Bill before the House.

Mr. LILLEY said that, of course, he was going to support the Bill. He had always been—at all events, for many years—a strong supporter of women's rights, both as a member of that House and as a lawyer. The opposition to the Bill, he was sorry to see, had arisen mainly from honorable members who were bachelors; for, so far as the married members had spoken, they appeared to be in favor of it. He thought he might say that, after some years of experience of married life, it was very consolatory to find that married members were still anxious and willing to protect the other sex. Before he proceeded to analyse the Bill, he would direct the attention of the bachelor members of the House—the selfish attention, he might call it—to a clause in the Bill which, they would find, proposed to confer a great advantage upon them. If they looked at the twelfth section of the Bill, they would find that it relieved them from a very serious liability under which they would rest by the present law. He would read the section, and they would then see the enormous advantage which would result to them, and to that he would draw the attention of the honorable member for Western Downs, who was, he believed, a bachelor; but it was quite possible that he and other honorable members who now opposed the Bill might some day be married, and it was possible that the young lady might be deeply in debt, in which case, under the existing Act, they would be responsible. But by the proposed Bill, relief would be given in that respect, as it said:—

"A husband shall not by reason of any marriage which shall take place after the passing of this Act be liable for the debts of his wife contracted before marriage but the wife shall be liable to be sued for and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried."

Now, he thought that that was an enormous premium offered by the honorable the Attorney-General to bachelors, to support his Bill, which he (Mr. Lilley) considered the honorable member had done well to introduce. It was, to a great extent, a copy of an English Act on the subject. In England, which was the greatest commercial nation in the civilised world, it had been found advisable to pass a Bill of this kind—and that with the fear of fraudulent debtors before their eyes; and why should they have any fear, after such an example, to pass such a measure in this colony? In great commercial England it was the law, and why should they hesitate to make it the law here also? The honorable the Attorney-General, he thought, deserved the thanks of the whole community for bringing in this copy of the English Act on the subject. Under the law as it at present stood, the position of a married woman was this—or at any rate, the practical effect of the law was this—that a woman, if she had any personal property of her own, immediately she got married, the whole of it became absorbed in the estate of her husband. He took it all—every shilling she was possessed of. If she had any real property, he took the fruits of it during their joint lives; and, under certain circumstances that would be explained to-night, he took a portion of the realty after her death. Now, on the other hand, if a woman married a man, she got no share whatever of any property he might possess, while he took all that was hers. If he had real property, and it was under a certain form of existing conveyance, she took no portion of it after his death; but if he left it without such form of conveyance, she might take a third of it. She was, as it were, the legal slave of her husband. Now, that was not such a state of the law as should exist amongst any enlightened people; and it was the pressure of that belief, acting upon the minds of English statesmen, which had led to a measure of this kind being passed in England—and it should also, he maintained, become the law of this colony. The Bill merely gave effect to this principle, that what was a wife's separate property before her marriage should, in a large measure, at any rate, continue to be her separate property after her marriage. What right, he would ask, had creditors of a husband to deal with the real or personal property that might be coming to a wife? It appeared to him to be a monstrous thing to uphold the present state of the law. Well, the first clause related to the earnings and wages of married women, which were to be deemed to be her property for her separate use. It was proposed, in this general enactment of the law, to protect the earnings and wages of a wife as against her husband's interference. As to the extreme supposition that had been advanced, that if a husband was sick the wife might neglect or desert him for the sake of spending her earnings upon herself, or, in the event of her having a policy of insurance on his life, make no effort to contribute to his recovery, in order that she might obtain the amount of the policy—if they were not to legislate because of the probability of such extreme cases, they might give up legislating altogether. And there ought to be no life insurances; and no life should be insured, because somebody, for the sake of the policy, by neglect or otherwise, might take away, or help to take away, the life of the insured. He fully agreed with this provision in the Bill, that they should give some protection to

the earnings and savings of a married woman. Then the second clause provided that deposits in Savings Banks by a married woman, should be deemed to be her own property. The objection to that clause was, that the moneys of the husband might be deposited in the wife's name, and the creditors of the husband would be thereby defrauded; but if it could be shewn that there was any fraud in the matter, the whole of the property would be taken away. The third clause referred to a married woman's property in a joint stock company. Now, all that was the separate property of the married woman. And why should it not be so? Having protection to her savings, why should she not have protection also to what was her separate property before marriage, or that might be acquired or obtained by her after her marriage? The French law was better in this respect, than what this Bill proposed; for it preserved to the wife the whole of her separate property, and gave her control over it. In France, the family was also a sort of joint stock company, and the father had not sole and entire control over his own property, but must make certain provisions for the whole of his family; and he thought that was a wise provision. Why should the father of a family be allowed to live in a way regardless of the claims his wife and children had upon him, and at his death leave them to be cast upon the world without a shilling? The existing law in this colony, in respect to the equal claims of children upon the property of the father, was savage and even barbarous; for it allowed a man to give to one of his sons the whole of his property, and leave the rest of his children penniless, and dependent upon the world. Now, he held that he should not be allowed to do so. A young man who had criminal instincts might be furnished by his father with the means of indulging those instincts, to his own injury and that of the public; and he might squander the whole of it in riotous living, while his brothers and sisters, who were living a good and virtuous life, were in penury, and were suffering the severest hardship. Such cases, as they were all aware, were not of infrequent occurrence. Now, he was astonished that people who had had an extensive experience of the world, should be found to support the continuance of a law that enabled that to be done. He knew, of course, that it was not possible to get some men to see beyond the shop, or the warehouse, or the ledger. Now, the passing this Bill would give a greater control to creditors over a man's estate than they had at present; and it would excite in themselves a greater watchfulness, while it would also excite a greater carefulness on the part of the trader himself. The sixth clause provided that personal property not exceeding £200, coming to a married woman, should be her own; and the seventh clause provided that in the case of freehold property coming to a married woman, the rents and profits should be her own. The clause was as follows:—

"Where any freehold property shall descend upon any woman married after the passing of this Act as heiress or co-heiress of an intestate the rents and profits of such property shall subject and without prejudice to the trusts of any settlement affecting the same belong to such woman for her separate use and her receipts alone shall be a good discharge for the same."

Now, why should not a provision of that kind become law? He could not understand why the husband should have the rents and profits of freehold property that might come to the wife by descent. The eighth clause provided how questions as to the ownership of property were to be settled. Now this clause should satisfy those who were always calling out for cheap law, as it provided a cheap and ready means of settling disputes that might arise between man and wife, as to their separate property. The clause was as follows:—

"In any question between husband and wife as to property declared by this Act to be the separate property of the wife either party may apply by summons or motion in a summary way either to a judge of the Supreme Court in chambers or on circuit or (irrespective of the value of the property) to the judge of the district court of the district in which either party resides and thereupon the judge may make such order direct such inquiry and award such costs as he shall think fit."

The tenth clause provided that a married woman might effect a policy of insurance upon the life of her husband. Now he could not but admire the consistency, and even the decency of the opponents of this clause. A married man might ensure the life of his wife and afterwards poison her, but a married woman was not to be allowed to insure the life of her husband lest she might afterwards poison him. They claimed the freedom of the husband to insure the life of his wife, but they denied to the wife the corresponding freedom of insuring the life of her husband for the benefit of herself, should she be the survivor, and of her children.

Mr. WIENHOLT: It was a bad law.

Mr. LILLEY: Well, at any rate that was the state of the law at the present time; and if it was bad why should they not alter it, as it was proposed by this Bill to do. A married man might insure the lives of his wife and children, and afterwards poison the whole of them; and that was an assertion of the superior control that the man had over the woman; but that the unfortunate wife should have the right to insure the life of her husband was a thing not to be allowed. It was possible that a crime might be committed by the wife after her husband's life was insured, but that was no reason why they should not give the wife the right of insuring her husband's life, any more than it was a reason why they should not pass any other good law where there was a very remote proba-

bility of wrong doing. Now he was not apprehensive that a provision of this kind would lead to any such results as those which were put forward in objection to it, for the fact was, as they all knew, that as a rule the love and affection of a wife towards her husband led her to be too forgiving, and such was her deep and strong interest in her husband that she submitted to the greatest hardships and sufferings for his sake. Then as to insurance, some husbands never thought of insuring their lives at all. While they lived, they lived up to the full extent of their income, and in many cases beyond it; and when they died, their wives and families were left in a state of utter destitution. Now, a wife might have a small income of her own, by her own earnings or otherwise, which would enable her to pay the premium on the policy of her husband's life insurance; and in such a case she would, if he died before her, be to some extent provided for. He saw no reason whatever why they should refuse to a wife the right to insure her husband's life; and he had not heard a single valid objection to it put forward by those who opposed the Bill. Apart from his own views on the question he had taken some interest in the arguments put forward in the course of the debates in the English Parliament on the subject; and, beyond the old stock arguments of its making women too independent, putting them above the men, and creating differences between the members of families, he had not found any argument of any force put forward by those who opposed the Bill. Now, as to making separate provision for a wife, he would ask honorable members if it was not quite a common thing, in their own experience, in the case of their own families, and of others, to make a separate provision by deed, for the wife before marriage? Did such settlement, he would further ask, lead to any unhappiness between the parties after they were married? Certainly not. The circumstance of the wife having a separate provision did not make any difference of feeling between them. On the contrary, the experience of lawyers was, that the wives were always too yielding, and too ready to sacrifice their own interests for the sake of their husbands'. In the course of his professional experience he had come to know of instances where the wife had given up far too much of the provision that had been secured to her by the foresight of her friends, for the purpose of assisting her husband. He had no patience with reasoning of that kind, for it was, in fact, an attack upon the right feeling, and high principle, and sense of honor of women. The pride that a good and virtuous wife had in her husband, her love, her affection, her sense of duty, her watchfulness, and her care for him in health or in sickness, placed her beyond all suspicion of guilty thought, because of her holding a policy of insurance over the life of her husband. (Great cheering.) He could tell' honorable members that he was not yet too old a married man to have lost his love and warm feelings of esteem for the sex. (Renewed cheers.) He believed that when young men lowered, or began to lose, high sentiments towards women, they also fell from all that was elevating and ennobling in man. (Renewed cheering.) He must say that he was quite ashamed to see so many bachelors in the House (Hear, hear, and laughter); and he hoped the honorable the bachelor members would take this Bill home with them, and read it carefully and ponder its provisions well. He would ask any honorable bachelor member to think of his being surrounded by his mother and sisters and female friends, and to look him in the face; and to look the Parliament in the face, and say if he really believed that the passing of this Bill would encourage women to kill their husbands (laughter); but he did not think that the honorable member for the Western Downs was in earnest when he made a statement of that kind. He did not think it was at all necessary for him to enter into any long and measured condemnation of the male sex, in order to justify the passing of such a measure as this. There were good men, and there were bad men—men who treated women in a cowardly and brutish manner, and who were a disgrace, and intolerable in any society; and on the other hand, there were good women, and there were women who were not good, but, as a general rule—as the prevalent rule, and one to which there were very few exceptions indeed—women deserved to be spoken of in the highest terms it was possible to use in speaking of human beings. He thought this was a very fair measure, and that it was one which they ought to place upon their statute book. No one could justify the present relation of a married man and his wife in regard to property, except upon the principles of feudal law, under which a woman was treated almost as the slave of her husband in respect to her property. The only objection he had heard put forward, that appeared to have even the semblance of force in it, was the one that was based upon commercial considerations—upon the fear that the Bill would open a door to enable persons to defraud their creditors. Now, he did not think that that would be the case. He thought that it would rather have the opposite effect. If it could be shewn that any property that had been settled upon the wife, had been fraudulently settled upon her, the whole of it could be taken away; but if, on the other hand, it was shewn that the property had been honestly settled upon her, what claim had the creditors of the husband to it? It was hers, inasmuch as it had been settled upon her either before her marriage; or she had succeeded to it under deed; and what right had the creditors of her husband to reckon upon it in their commercial transactions with the husband, or to lay hold of it in the event of his becoming insolvent? He did not see either

why a married man, engaged in trade, should not make a post-nuptial settlement at a time when he was prosperous, by way of making provision for his wife and children. A man might be in trade for a great many years, and at some period he might have been in a very prosperous condition, and have honestly—and when widely clear of all obligations to his creditors—made a settlement of property upon his wife; but in the course of time he might be overtaken by adversity—and all men engaged in business were liable to that;—and why should not the property that he had settled upon his wife when he was prosperous, and which his creditors all the time they were dealing with him knew very well was not his but his wife's, and settled upon her as her separate property—why should it not be protected to her as against any claims the creditors might have upon her husband? As he fully approved of the Bill, he would give it his hearty support.

Mr. BUCHANAN said he would support the motion of the honorable member for East Moreton, Mr. Hemmant, that the Bill be read a second time this day six months.

AN HONORABLE MEMBER: Another bachelor!

Mr. BUCHANAN: Yes, another bachelor; and it did seem strange to him that mostly all the opponents of this measure were bachelors, and that mostly all the supporters of it were married men. He must confess that it was rather awkward for a bachelor, as he was, to get up and oppose the Bill after the very able speech they had just listened to in support of it. Under the first clause, which secured to a married woman the whole of her wages or earnings, it would be competent for a wife, if her husband fell into bad health, to ignore him altogether. She might be able to provide for herself, and as her husband had no legal claim over her earnings, she might apply the whole of them to her own use. That was one way in which the provisions of the Bill might be acted upon. Then there was the eighth clause, providing how questions as to ownership of property were to be settled. The honorable member for Fortitude Valley had praised up that clause, because it introduced cheap law. Now, in his opinion, law of any kind, whether cheap or dear, was a thing to be avoided between married couples. He thought that, considering the squabbles that took place between married couples, especially in the case of the poorer and uneducated classes, cheap law, instead of being an advantage, would be a disadvantage. The tenth clause provided for a married woman obtaining a policy of assurance over the life of her husband. Now he could believe that, in the case of a wife possessing a policy of assurance over the life of her husband, there might be inducements in many ways that would lead her to poison her husband that she might obtain the amount of the assurance. The honorable member for Fortitude Valley had asked—Why should a man have the right to insure the life of his wife, if he might poison her? Well, he held that it was wrong that a man should have the power of insuring the life of his wife. A man should have no right to insure any life but his own; and he should have no interest in any life but his own. His main objection to this Bill, however, was upon commercial grounds. He believed that it would open a door to persons in trade to defraud their creditors. It would enable a man to deposit money in the Savings Banks, or to invest it in joint stock companies in the name of his wife, with the view of defrauding his creditors; for it could not be proved that the moneys so deposited or invested were his, and not actually the wife's own savings. Now, on the other hand, while a woman's savings were protected against her husband by this Bill, her husband had no protection against her creditors. According to the provisions of this Bill, in the event of a husband becoming insolvent through his wife's extravagance—and such cases did arise—were the husband's means protected against those who had given her credit? No; they were not. It was therefore a gross injustice towards the husband to pass a Bill like this. The husband's creditors would have to stand the extravagance of the wife, who might bring ruin upon her husband, for he had no protection against her extravagance; but, on the other hand, the woman's earnings were protected against the liabilities of the husband—even those of a domestic nature, and which might have been incurred to a great extent by his wife's extravagance. His attention had been directed to the twelfth clause of the Bill. It provided that a husband should not be held liable for his wife's contracts before marriage. He would read the whole of the clause. It was as follows:—

"A husband shall not by reason of any marriage which shall take place after the passing of this Act be liable for the debts of his wife contracted before marriage but the wife shall be liable to be sued for and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried."

(Laughter.) Well, that was a clause of the Bill which he thought might be allowed to stand, and all the others might very well be struck out. He had only further to say that he would oppose the Bill through all its stages.

Mr. GRIFFITH said that notwithstanding the eloquent and forcible arguments that had been advanced by the honorable member for Fortitude Valley in support of the Bill, he felt it to be his duty to oppose the second reading of it, and he would do so upon what he considered to be very sound reasons—and he would premise that he was not a bachelor. He might remark that it struck him as rather singular that this Bill should have been introduced by a bachelor; and, what was more singular, that the second reading of it should have been moved

without a single word being said in explanation of its provisions. He was aware that when the honorable member introduced the Bill, he made a few observations in explanation of its provisions; but he could not say that he now remembered the nature of them. The honorable member for Fortitude Valley had said that the existing law made the wife the slave of the husband, and that it was based upon the feudal laws, the principles of which were characterised by gross injustice to women. Now, he (Mr. Griffith) had always hitherto been of opinion that the law of marriage was of a much older date—that it was founded on the Divine law given at the beginning of the world, "And they two shall be one flesh," —and he did not think that any Legislature had yet attempted to repeal that Divine law. (Laughter.) Well, honorable members might laugh, but he thought it would be as well to leave it alone. He certainly thought that the more facilities they gave for litigation between husband and wife, the worse it would be for all concerned. Just imagine a cause of litigation arising between a man and his wife—and they did quarrel sometimes—and that they went before a judge who might be a bachelor. How, he would ask, would the judge be able to deal with the case, in the matter of issuing a summons and taking evidence in the case? He did not see how the objection on that ground was to be got rid of; and it was one that certainly destroyed the force of the argument as to the cheap and speedy way in which disputes between man and wife might be settled. Then they were told that this measure was founded upon an English Act; but because it was in force in England, that was no reason why it should be adopted here. If it was held to be so, they might as well pass one Bill every session adopting all the Acts that had been passed in England that would be applicable in any way to this colony, which would relieve them of a great amount of the labor of legislation. If they had any right to legislate at all for the colony, it was their duty to form an independent judgment as to what was required by the colony, and what would be suitable for it. Now, it was usual, when they proposed to adopt any Act that had been passed in England, to wait until they saw how it had worked there; but that had not been done in this case, for the Act had not been sufficiently long in operation to prove whether it was a beneficial measure or not; and besides that, although it was a measure that might be suited to an old and thickly-settled country like England, it did not follow that it would be suited to a young and thinly-peopled colony like this. One of the reasons put forward by the honorable member for Fortitude Valley in favor of the Bill was, that on the marriage of a woman, all the property she might possess became the property of her husband, unless she was wealthy enough to secure a settlement. Now, he had not been able to see that this Bill dealt with the question of settlement at all.

Mr. LILLEY: See the eleventh clause.

Mr. GRIFFITH: The eleventh clause said:—

"A married woman may maintain an action in her own name for the recovery of any wages earnings money and property by this Act declared to be her separate property or of any property belonging to her before marriage and which her husband shall by writing under his hand have agreed with her shall belong to her after marriage as her separate property and she shall have in her own name the same remedies both civil and criminal against all persons whomsoever for the protection and security of such wages earnings money and property and of any chattels or other property purchased or obtained by means thereof for her own use as if such wages earnings money chattels and property belonged to her as an unmarried woman and in any indictment or other proceeding it shall be sufficient to allege such wages earnings money chattels and property to be her property."

That was where there was a settlement. The clause provided that where there was a settlement upon a married woman she should be able to sue in her own name. Now, he would ask, was there anything whatever which this Bill proposed to deal with that required their immediate attention, or that required legislation at the present time? In his opinion there was not. There were a great many measures of importance on the Notice Paper, which were demanded by the country, and which, he thought, ought to be dealt with before they entered upon the consideration of a Bill of this kind; and he would venture to say that there was not one woman out of every hundred in the colony who had ever heard of this Bill or cared for it. It had been said that the Bill was not likely to do any harm, because women were so good. Well, his opinion in the matter was this:—that where women were good, they would not take advantage of the provisions of the Bill; and where they were bad, there was no need for the time of the House to be taken up in legislating for them. It had been objected to the Bill that it was likely to open a door to fraud. Now, he would answer that by saying that it would not open any way to fraud that did not exist at present, but it might open the way more widely to fraud and make the fraud more difficult if not impossible of detection. Anyone who had had to deal with cases of fraud knew that fraud was a charge which it was very easy to make, but one which it was very hard to prove. Under the existing law, they could prove whether a married settlement was fraudulent or not, for they had it in writing, and had the date of it, and the date of marriage, and they had also some description of the nature of the settlement. With such particulars fraud could be proved if any existed; but under the provisions of this Bill it would be very difficult to prove whether property that might be settled

on the wife was settled fraudulently or not. The plaintiff would be entirely in the dark; and he would have no opportunity of knowing, prior to the commencement of any suit, if there was any real case of fraud, and if so, what was the extent of it. Now, not to go farther than the first clause :—

"The wages and earnings of any married woman acquired or gained by her after the passing of this Act in any employment occupation or trade in which she is engaged or which she carries on separately from her husband and also any money or property so acquired by her through the exercise of any literary artistic or scientific skill and all investments of such wages earnings money or property shall be deemed and taken to be property held and settled to her separate use independent of any husband to whom she may be married and her receipts alone shall be a good discharge for such wages earnings money and property."

If a question as to fraud arose under that clause, how was it to be found out whether the money that might be in dispute was the produce of the wife's own earnings or not? He had not yet had sufficient experience even to guess as to how it might be found out, except by questioning both the husband and the wife; and anyone who had had any experience in the examination of a husband and wife in the Insolvent Court, knew what value was to be placed upon their evidence; for the statements of both parties, where fraud might be supposed to exist, were generally found to agree. Then as to deposits in the Savings Banks. If they were lodged in the name of a married woman, who could detect whether they consisted of her own earnings, or of the moneys of her husband? He was quite well aware, that a Bill of this kind had been passed in England, and that it had been supported by probably the highest lawyer in England; but it should be borne in mind, that some things which were possible in England, might not be possible in this colony. For intance, under the English system of insolvency, it was possible for many things to be done, which could not be done here. It was possible, for instance, under the English Act, to detect fraud in England, and to recover property; but that could not be done here to the same extent, because the population were too widely scattered and too changing. Another thing to be observed was this, that the Bill was all one-sided as against the husband. It gave a married woman the right to bring an action against her husband, but suppose she lost it? Why the defendant would have to pay all the costs. The fact was, that in a case of that kind, the wife was to have everything and the husband nothing. He had other objections to the Bill besides those which he had stated; but he did not wish to go into them at the present time. He believed that a Bill might be brought in on the subject of married women's property which would be beneficial; but he did not think this Bill could be so amended as to become an acceptable measure, nor did he think that the House, or any member of the House, would be at the trouble to attempt the task of amending it, in a way that would be likely to meet the objections he had to it. He had stated the reasons he had for opposing the Bill, from the cursory glance he had given to it; and for those reasons he would support the amendment of his honorable colleague—that the Bill should be read a second time this day six months.

Mr. MILES said it was also his intention to vote for the amendment of the honorable member for East Moreton; and the reason he would do so was this, that he believed the House might be much better employed than in attempting to pass a Bill that would only have the effect of breeding strife and dissension between husband and wife, which seemed to him to be the object of this Bill. He must confess that he was on one occasion induced by the honorable member for Fortitude Valley to vote in support of the franchise being extended to women; but since he did so he had reconsidered the matter. It was a vote he should always regret, and he certainly hoped he would never allow himself to be led into such an error again. Now it would be in the recollection of honorable members that about ten years ago the honorable member for Fortitude Valley brought in a Divorce Bill—another Bill about women's rights—and though that Bill had been in operation for about ten years, only two cases had been brought before the court under its provisions. On that occasion the honorable member pointed out the evils and woes that married women were subject to, from the want of such a law as he then introduced; and the evils that would be redressed by there being such a law. He also referred to some cases of the grossest hardship and cruelty that had taken place, that would be met by the Bill, and argued that it would be a wrong thing on the part of the House not to pass the measure. Well, the Bill was passed, and that was ten years ago, and yet only two cases had been brought before the Supreme Court under it. Now he thought the House would be better employed in going on with other business, than in the discussion and passing of a Bill like this. They were told by the honorable member for Fortitude Valley that this Bill was a copy of the English Act, and that therefore they would be doing what was right to pass it. But what might be very good and practicable in England might not be practicable here, under the circumstances of the colony at the present time. Though there might be a necessity for a measure of this description in the old country, which was thickly populated, he did not think that it was at all suitable for a young and thinly peopled colony like this. He had not heard one honorable member who had addressed himself to this question point out a single case in which a married woman had suffered

any hardship under the existing law. There was no doubt that there were some men whom no Bill that they could pass would compel to act honestly and fairly, either as regarded their wives or their creditors; but he did not see why the time of the House should be now occupied in passing a measure of this kind, when there were so many matters of general public importance demanding their attention. He had no doubt that a Bill of this kind would lead to frauds being committed; and in fact it appeared to him that it would hold out a premium to commit fraud; and he thought the House should hesitate before they placed such a measure upon the statute book. Entertaining the opinions he had endeavored briefly to express respecting this measure, he would certainly support the amendment which had been proposed by the honorable member for East Moreton—that the Bill be read a second time this day six months.

Mr. MacDevitt said he thought that a slight reference to what the law was upon the subject, at the present time, might enable honorable members to come to a more dispassionate and more unprejudiced conclusion, as to the advisableness of passing a measure of this kind. In the course of the discussion that had taken place, the subject had been treated with a good deal of jocularity, and invested, in some instances, with a considerable amount of sentimentalism. The honorable member for Fortitude Valley had spoken of the inducements it held out to bachelors contemplating marriage, as it would free them from liability for the debts contracted by their wives before marriage; and the honorable member, Mr. Griffith, had gone back to Genesis, when the law was given that "they twain shall be one flesh," for an argument against the Bill. Now he did not mean to say that it was contemplated by the Bill that there should be any departure from the Divine ordinance referred to by the honorable member for East Moreton. On the contrary, he thought the Bill was calculated to promote a feeling of mutual confidence between husband and wife, as it would give them just and equal rights. At any rate, that appeared to him to be the object of the measure. Now, it would be found that, under the common law, all the property of a woman became the property of her husband on her marriage, and was at his disposal; but, like many of the other doctrines of the common law, which had sprung from the feudal state of society, it had come to be greatly modified in the course of time. Circumstances had shewn that however much those maxims of law might have been upheld during the wild and excited state of society in feudal times, a return to a state of things more consonant with reason had become necessary. Hence it was that since the time the principle of the common law was laid down, up to the present time, their jurisprudence had undergone a continual modification in favor of the public. They had first the fact that the husband had to relinquish a certain portion of his rights in favor of his wife; and the Court of Chancery had even gone so far as to require that effect should be given to ante-nuptial settlements—that was the settlement of property upon a married woman before marriage; and it was a fact worthy of notice that, even in England, where the feudal system had been carried out to the fullest extent, and where it had been so strongly maintained, there was hardly an instance in the history of any family of importance, in the case of marriage, where there was considerable property, that the property was not protected in favor of the wife by a settlement of this nature. The Court of Chancery, in the vindication of common justice, had often interfered in a summary way to mitigate the severity of the common law; and, not only had it done that to protect ante-nuptial settlements, or settlements before marriage, but it had even taken care, in the event of real property descending to the wife, after marriage, that before the wife could have the usufruct of it, the husband must appoint trustees to secure to her the whole use and benefit of it. Now, what did this Bill propose? It proposed only to do for the people generally, that which the rich could do through the Court of Chancery for themselves. The law, as it now stood, enabled a man to come down on the property of his wife, whom he might have deserted or not, and who might have been struggling hard to keep her home together, and maintain her family, and preserve, as far as possible, that measure of respect which she felt she merited—it allowed him to come down upon the fruits of her industry, and advertise it at auction, and sell and dispose of it all and appropriate the proceeds, and desert her and leave the country. Now, it was from such a state of things having forced itself strongly on the attention of the most eminent statesmen in England, that had brought about this change in the law. The honorable member for the Maranoa had stated that in the course of this debate he had not heard any reference made to a single instance in which the operation of the present law had been found to be attended with hardship. Now, he could tell the honorable member that, even within his own experience, short as it had been, and perhaps not very extensive, he had met with cases of very great hardship on the part of married women. He had come to know of cases where women who had struggled in the face of the brutality of their husbands to support their families by their own earnings, were, at length, obliged to flee the country to escape from their husbands, and that from the want of such protection as this Bill proposed to give to married women. This measure had been treated with a considerable degree of flippancy by some honorable members; but in approaching a measure of so much importance, and upon which they

had, after all, expressed such strong opinions, they ought to have treated it with more gravity than they had done. The measure upon which this Bill was based was one that passed through a second reading twice in the House of Commons. It lapsed from some accidental circumstance on the first occasion, after the second reading; but on the second occasion, it was referred to a select committee. Then, it was introduced into the House of Lords by no less eminent an authority than Lord Cairns; and Lord Westbury, while he opposed it, and ascribed its origin to the maudlin sentimentalism of the day, and though he stated that, upon that ground, it was in some respects faulty, he admitted that the principle of the Bill was sound, and that the necessity of providing protection to a wife as against her husband in the matter of property, in certain cases, was a principle that ought to be recognised by all statesmen. Lord Westbury, however, stated that, if the measure were amended so as to meet the objections he had to it, he would support it. As the measure had gone through the ordeal of two second readings in the House of Commons, and had also passed the House of Lords, he thought it might be very fairly looked upon as having been passed for grave and weighty reasons. The honorable member for East Moreton, Mr. Griffith, had said that they had not yet heard whether or not the Bill had been found to work satisfactorily. Well, he thought that statement of the honorable member went greatly to negative the force of the doubt he raised; for while they heard of measures that had not given satisfaction, they seldom heard much of measures that were found to work satisfactorily. This measure became law in England in 1868, and had gone on ever since; and all that the honorable and learned member could say about it, notwithstanding his industry to obtain grounds for opposing the Bill, was, that they had not yet heard if the measure had worked satisfactorily in England. Well, as they had not heard anything to the contrary, they might fairly look upon it that it had been found to have effected a satisfactory amendment of the law. In addition to the statement he had made as to instances of hardship that had come within his own knowledge, he would take that opportunity of noticing what was said by Russell Gurney, in moving the second reading of the Married Women's Property Bill in the House of Commons; and he thought that his statements were pregnant with weighty reasons for the consideration of honorable members, if they wished to be guided by the principles of common sense and justice. Mr. Gurney said:—

"He would not weary the House with many extracts, but he would refer to the evidence of an intelligent police magistrate, who spoke of the numerous cases which were mentioned to him of women, after being left by their husbands, making, through their own exertions, their homes comfortable, and finding those homes upset by the return of their husbands, who took possession of the whole of their property by virtue of conjugal right. Testimony to the same effect was given by others; but as to the strong feeling entertained by working women on this subject, he would refer the House to the important evidence given by the honorable member for Sheffield (Mr. Mundella), who had 2,000 women earning wages in his employment, of whom two-fifths were married. That honorable member stated that he had talked with the poor women on this subject, and the mere mention of it brought tears to their eyes, and one of them told him that she lived in terror lest upon returning to her home on any occasion, she should find everything she possessed swept away. The feeling of dissatisfaction at the present state of the law was not confined to the wives of the working men, but the men themselves felt the hardship to which their wives were subject; and the honorable member for Sheffield—than whom no person had a better right to speak with authority on the subject—said he was sure that all the sensible and intelligent working men would be in favor of a change in the law."

He thought that the generalised statement—founded as it was on the experience of human nature, which was the same all over the world—ought to teach honorable members that there were similar grievances here, and that they ought to legislate for them. It might have been well, had the Bill been subjected to the consideration of a committee, with power to inquire into the evils which it was proposed to remedy; but the honorable and learned Attorney-General had not seen fit to refer the Bill to a committee, and in this he agreed with the honorable gentleman, because it was not necessary to go very far for evidence of the existence of such evils. Honorable members had only to go to the police court in Brisbane, or to the judges of the Supreme Court in chambers, where it would be found that frequent applications on behalf of women were made before the police magistrate and the judges for protection orders. Indeed, in the first instance, applications by married women for the protection of their earnings were to be made to the judges only in chambers; but the applications became so numerous that, by the forms of law, it was now competent to make such applications to the police magistrates, and the records of the police court would shew that, though not numerous, they were found enough, in this community, to justify legislative interference. If that was so, he thought the House might very fairly give the Attorney-General credit for introducing the Bill; and he was confident that, if passed, it would have the effect of doing a great deal of good for several families in this colony. It was common to read in the newspapers, and to hear it said—he had often heard it, in his travels through the country, because he travelled a great deal—that women were compelled to leave their husbands; and honorable members would bear him out that, in their practice, they often had business submitted to them in connection with such cases. That being so,

the evidence taken in England, which so strongly recommended the measure there, was a sufficient justification for passing it into law in this colony. The subject had been mixed up with a great many other things; but there was one answer to all the arguments that had been adduced against the Bill. The honorable and learned member for East Moreton, himself, if applied to in a case in which a woman about to be married was possessed of a great deal of property, would advise a means by which the woman so about to be married would get the protection which the Bill sought to make general. The long usage and practice of the Court of Chancery which afforded that protection, and the beneficial results in every way flowing from it, were a sufficient argument in favor of the Bill; and the beneficial improvements of the law in England, which it was sought to extend to this colony, should be ratified by the passing of the Bill. Whether the Bill passed or not, there was no doubt whatever that, in a very short time, it would become law.

Mr. CRIBB was understood to say that, if he had heard an explanation of its objects given by the honorable member in charge of the Bill, it might have removed some doubts from his mind as to the propriety of such a measure. The omission to give the explanation on the second reading was in order that the honorable and learned Attorney-General might not be debarred from making a reply to the debate on his motion. He (Mr. Cribb) had heard nothing in favor of the Bill which would induce him to vote for the second reading; he would rather support the amendment of the honorable and learned member for East Moreton. He was apprehensive of encouragement to fraud, under the provisions of the Bill. The only clauses that were good for anything were the sixth and the seventh; and he felt sure that the law provided already for the cases therein contemplated. He knew instances of wives who had money settled on them for their own use, and it was a never-ending cause of bickering between them and their husbands: far better for both if there had been no settlement at all. It would be injurious to society to pass the Bill. Many of the matters that had been so earnestly referred to by the honorable member for Kennedy were provided for by the Matrimonial Causes Jurisdiction Act and the Deserted Wives and Childrens Act. There were social evils which the Bill did not touch. As the law now stood, a man might leave all his property to his son, and leave his wife and daughters destitute. The Bill did not provide to alter that; nor would it remedy other difficulties that were acknowledged to exist legally.

The ATTORNEY-GENERAL said he would offer a few words in reply to the objections that had been raised to the Bill. This debate ought to satisfy the House, if any proof was required, of the exceeding advantage of the practice that was introduced this session, of allowing an honorable member in charge of a Bill to make his speech in explanation of its provisions on the first reading; and, after simply moving the second reading, to have the right of reply to all the observations advanced by the House in debating the principles and the various provisions of the Bill. It would surely have been most inconvenient if he had been compelled to have given his reasons, this evening, in moving the second reading of the Bill; as it would have been impossible for him to have anticipated the objections that had been raised against the measure—so various in their character, and so untenable, individually, that no one could have anticipated one-half of what had been said. It was, he thought, very fortunate that he had now the opportunity of replying to some remarks that had been made. At first, he began to fear that the Bill would be laughed out of the House, and that it would never receive at the hands of honorable members the careful and impartial consideration that it deserved. Whatever might be its merits, the earliest speakers in the debate seemed to have thought that it was a matter to be treated in a light and jocular manner, as if the interests of nearly half of the community were of no importance whatever. He was glad that the latter speakers had saved the character of the House, and treated the subject in what he would say was in no way an approach to a spirit of levity. One objection offered, was, that he had given no explanation of the Bill; but several honorable members who had made that objection had refuted it themselves by shewing that they were intimately acquainted with the provisions of the Bill. Although such objections were unworthy of the House, they shewed that there was no reason to blame him for not having explained the measure at length on the motion for the second reading, after having made an explanation on the first reading. Other objections had been made, traceable to the circumstance that the scope of the Bill was not properly understood by those who had advanced them. The House had been told by one honorable member, that in the whole of his experience he had not heard of one case of hardship which rendered the Bill at all desirable: he was probably the only member of the House who could say so. There were very few men in this colony who had not heard of hard cases under the present law. Again, the House had been told that the law provided for married women obtaining protection for their earnings after they had been deserted by their husbands. Well, the fact that the principle of the Bill was recognised by law shewed that it was a good one; and the Bill only proposed to carry that principle further, and to give effect to it in a much better manner than the existing law did. The Deserted Wives and Childrens Act did not meet the case of a husband and wife separat-

ing amicably, the husband going up the country—as, honorable members knew, was done in numerous instances—for the purpose of earning a livelihood, and it might be, dying hundreds of miles away in the interior from his family. In that case, there had been no desertion; but the wife could not obtain any protection for her own earnings. She might, in her husband's absence, have raised a little home. Yet, on her husband's death, that property, which she had acquired, would pass to the next of kin—not to his widow! She would only retain such proportion as the law allowed. Somebody out of the colony, perhaps, would come in for the fruits of her industry, and frugality, and self-denial. That the present Bill proposed to remedy. If such a case as he (the Attorney-General) had mentioned was possible, a remedy should be provided. It was quite possible under the existing law for a man to desert his wife and go off with another women—to leave his wife, and to live apart from her and in adultery with another women—for years, his wife spending those years alone in honest industry and frugality, and acquiring what to her would be a small competence, a comfortable home for herself and it might be their children; and for that man, by will, to take everything away from his wife, and to leave all to his paramour, which had been thus acquired by his wife alone. The law that allowed such a case of extreme hardship to be perpetrated required amendment. He (the Attorney-General) thought he had suggested amendment of the proper kind. Yet the objection to his Bill was, that it opened the door to new frauds. That objection had been very much exaggrated, and really proceeded from a want of knowledge of the law at the present time, as well as from not understanding the meaning of the Bill. In what way were the frauds to be committed? Was it by placing money in the Savings Bank in the name of married women? That was one objection which honorable members had raised, in the anticipation that the mere power of placing money in the Savings Bank would create a fraud, and withhold from a man's creditors the possession of his property. He asked those honorable members who had raised that objection, why they did not bring forward an instance in which it had occurred within the last eight years?--because, he held in his hand the *Government Gazette* for 1864, which gave to married women the power to make deposits in their own names in the Savings Banks, and, ever since that time, that power was exercised. Why did not honorable members substantiate their objections on that ground? For the very simple reason, that they could not. Because no ground for such objections existed. He (the Attorney-General) thought that that knowledge, which was probably new to honorable members who had raised the cry, ought to modify their views as to the measure he had brought forward. The tenth regulation under the existing law, by which married women were allowed to make deposits in the Savings Bank, was as followed:—

> "Deposits may be made by married women, and deposits so made, or made by women who shall afterwards marry, will be repaid to any such woman, unless her husband shall give notice in writing of such marriage to the Colonial Treasurer, and shall require payment to be made to him."

So, the very principle of the Bill which had been attacked so much, had been in force, and successfully, in the colony, for the last eight years; and honorable members had not been able to point out any real objection to it. The House had been told that the circumstances of this colony differed from those of England, and that however suitable the Bill might be to a populous country, as at home, it was very unsuited to the requirements of the scattered community of Queensland. That was not a reason for objecting to the Bill. Those honorable members who had used it, had carefully abstained from pointing out how or why the circumstances of the community differed from those of England. If there were any real grounds for the objection, or any real force in it, honorable members would have gone into particulars, and told the House what were the differences of circumstances that made the Bill unsuitable to this country. Finally, the last objection that the honorable and learned member for East Moreton had brought forward, was, that under the first section of the Bill a woman's earnings might be employed for herself to the exclusion of her husband; and the honorable member had told the House a very novel fact, that fraud must be proved or it would not be recognised. He (the Attorney-General) always believed that the necessity for proof was one of the requirements to the understanding of anything; and he must point out to the honorable member that the first section to which he had taken so much objection only dealt with property acquired by a wife "separately from her husband." If the honorable member had been able to give a little more time than he had given to the consideration of that clause, such an argument would not, at all events, have been brought forward on this occasion. The honorable and learned member for East Moreton had stated, also, that the Bill failed in another direction, in respect to the remedy provided in the Court of Chancery by action for debts against property held by a wife to her separate use; but if he had considered the Bill carefully, he would have found that it proposed to place the property of a married woman in precisely the same category as that which had been provided by settlement for her separate use, and that, consequently, all the incidents provided in the Court of Chancery would be provided here. So that, in that argument also, the honorable and learned member had failed. What might be the fate of the Bill, to-night, he (the Attorney-General) did not know; if he carried it, it

would be only by a small majority. But whether he carried it or not, he was satisfied that it was a measure for the good of the country. If it should be passed, he was satisfied that the country would approve of it. If it should not be passed this session, he would, if a member of the House next session, again bring it forward; and he would do so until it did become the law of the land, and he was sure it would not be many years before it did, if he was not successful on this occasion.

Question—That the words proposed to be omitted stand part of the question—put, and negatived on a division, as follows:—

Ayes, 11.	Noes, 16.
Mr. Palmer	Mr. Thornton
„ Bramston	„ Hemmant
„ Bell	„ Miles
„ Thompson	„ Cribb
„ Ramsay	„ Johnston
„ Lilley	„ W. Scott
„ Fyfe	„ Edmondstone
„ J. Scott	„ Griffith
„ Stephens	„ Handy
Dr. O'Doherty	„ Clark
Mr. MacDevitt.	„ Royds
	„ Ferrett
	„ Buchanan
	„ Thorn
	„ Morehead
	„ Wienholt.

The amendment, for reading the Bill this day six months, was then put and affirmed.