

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

THURSDAY, 25 JUNE 1874

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ERRATA.

Page 646, second column, *read*, for "Mr. Miles," "Mr. Morehead."

Page 655, column 2, third line from the end of Mr. Box's speech—for "lawyer," *read* "banker."

Page 819, column 2, seventeenth and eighteenth lines from the top—instead of "The Chief Secretary, Mr. Bligh," *read* "Phelps."

Page 879, column 2, nineteenth line from the top—instead of "would," *read* "in town ought to;" twenty-second line—for "if they could leave," *read* "without even;" and, twenty-third line, after "it," at end of sentence—*read*, "so long as they cultivate a tenth." In lieu of the sentence commencing on the twenty-fifth and ending on the nineteenth line from the bottom—*read* "And, then, woe betide the squatters in the outside districts!—all the lands in the settled districts would be gobbled up!—because no Government would stand an hour unless they brought in a comprehensive Land Bill, dealing with the whole of the lands of the colony."

Page 892, column 2, at the end of the debate on the Crown Lands Sales Bill, after the word "Question"—for "That," *read* "On."

LEGISLATIVE COUNCIL.

Thursday, 25 June, 1874.

Deceased Wife's Sister Marriage Bill.—Supreme Court Bill.

DECEASED WIFE'S SISTER MARRIAGE BILL.

The POSTMASTER-GENERAL moved the second reading of a Bill to legalise the Marriage of a man with the sister of his deceased wife. As honorable members were all well aware, it was not a Government measure; it had been handed to him by a gentleman in the other Chamber. He thoroughly concurred in it, and he wondered it had not become the law of the land long ago. A great many persons were under the impression that the Bill proposed a radical, a fundamental, change in the marriage law of the colony; but it did nothing of the sort. The law had been altered in some of the other colonies, as a similar measure had

passed the Legislatures of Victoria and South Australia. The marriage laws of the colonies ought to be assimilated, and the Bill was a reform in that direction. In the mother country there was an Imperial statute against marriage with a deceased wife's sister, and, of course, such a marriage was illegal; in the colonies that was not the case, but such marriages had not been left beyond doubt, except in those colonies which had passed measures similar to the Bill. Here such marriages were voidable; in England they were bad *ab initio*, as the lawyers said. Indeed, in the colonies they were legal everywhere, unless during the time the parties were alive they chose to enter the legal arena—unless one of them applied to the Supreme Court to untie the marriage knot. Such was his interpretation of the law. Seeing that that was the case, he asked honorable gentlemen whether it would be right for the Council to let the law remain as it was; whether it would not be best for them to put the law beyond doubt, and to bring it into consonance with the laws of Victoria and South Australia? He held that it was necessary that the law of Queensland should be assimilated to theirs. He had not the least hesitation in saying that before long the proposal embodied in the Bill would be the law all over the civilized world.

HONORABLE MEMBERS: No, no.

The POSTMASTER-GENERAL: As the law stood in this colony, if a man died, having contracted a voidable marriage—the marriage of a man with his deceased wife's sister—the children were legitimate, and the marriage was looked upon, to all intents and purposes, as legal. The Bill would, however, place the marriage beyond the possibility of a doubt; hence he introduced it, and he saw nothing to deter the House from passing it. Its object was to prevent one party to such a marriage doing a great wrong to the other. To him it was a strange anomaly that blood relations were allowed to marry, while there was a legal objection to the marriage of a man with his deceased wife's sister;—indeed, it was a very extraordinary inconsistency. He might appeal to the old and strong argument in favor of the Bill, and ask, who was better able to look after and provide for the children of the deceased wife than that wife's sister? He had the sanction of the highest authority in the realm for the Bill, that of the Archbishop of Canterbury, who was a strong advocate for the legalisation at home of the marriage with a deceased wife's sister, and who certainly could see nothing to warrant his disapproval of it. The Jews, he would point to, as affording strong testimony in favor of it. A distinguished member of the Hebrew faith said:—

“This is the law. For 3,000 years we have acted upon it. In all these years there has never been a Jewish rabbi who conceived the possibility of its being misunderstood. To this day marriage with a deceased wife's sister is common with us in all countries. We have found such

marriages, as a rule, most happy; and no man or woman has ever lost caste among us—no, nor one iota of our respect—by contracting such a marriage.”

“If, then, these marriages are in harmony with the Divine law, and are conducive to the interests of society, surely to prohibit them is a folly and a crime. The law, as it stands now, restrains unjustly the liberty of the subject. It only galls, and irritates, and injures, for it is not and will not be obeyed. It robs worthy men of their status in society, and makes them law-breakers. It robs honorable women of the high rank and dignity that belong to a wife, and calls them harlots. It robs innocent children, born in honest wedlock, of their patrimony, and brands them as illegitimate. The law, as it stands, does all these wrongs, and without effecting one single good. It has stood long enough—too long. It is doomed. It must depart as so many relics of the bigotry of bygone days have departed.”

HONORABLE MEMBERS: Whose is that?

The POSTMASTER-GENERAL: An eminent Hebrew in Birmingham: he quoted from the Victorian “Hansard.” After that he did not think it was necessary to say anything further.

HONORABLE MEMBERS: Name.

The Hon. H. B. FITZ: It is no authority unless you name.

The POSTMASTER-GENERAL: It was said by a distinguished member of the Hebrew body in England, in the course of a speech; and it was quoted by Mr. Langton, the present Colonial Treasurer in Victoria. He (the Postmaster-General) might read many other authorities in support of the Bill, but he did not think it necessary. He hoped the Bill would pass, and remove the disgrace from the existing law, which at the present time allowed either party to a voidable marriage to set it aside: a man could rid himself of his wife and get another, and so brand his children as bastards. If for no other reason than to prevent the chance of a stigma on innocent children, the House ought to pass the Bill.

The Hon. H. B. FITZ said that when the Bill was before the other House of Legislature he was hopeful it would never reach the Council; and he regretted to find that it had got to such a length. He had not expected that there would be found in the Assembly a sufficient number of members of such a gross tone of mind as to give a majority for the Bill. He trusted that the Council would mark their sense of the measure in the way it had been marked in other colonies. The Postmaster-General had referred to South Australia, where the measure had been adopted, as affording a reason why it should be adopted here. He (Mr. Fitz) could tell that honorable gentleman and the House, that when he was last in Sydney, he happened to meet and converse with one of the Ministry of South Australia, and amongst other matters, he said to that gentleman: “By-the-bye, how is that Bill working, legalising marriage with a deceased wife's sister?” “Really,” he said, “I can scarcely

tell you, for you hear very little about it. I can tell you this much, however, from my own observation. After the Bill passed, I went to Europe, and lived there a few years. There had lived in a home with their married sister two young unmarried women. On my return to the colony, these girls were earning their own living as nursery governess—their education not allowing them to go higher as governesses. I was induced to ask the reason. They told me that after that abominable Bill had passed, their sister never gave them one moment's peace; she was so unkind to them, that they were obliged to leave the house.”

HONORABLE MEMBERS: Who was it?

The Hon. H. B. FITZ: The Chief Secretary, Mr. Bligh, whom he met at the Australian Club. That gentleman said: “I can tell you more. I was travelling through South Australia, and I staid at a friend's house; of course, a wooden building—you cannot shut your ears to little disputes. I heard the lady find fault with her husband for his unkind manner to her. ‘I know what you are trying to do—to worry me to death.’ She was in delicate health. ‘You know you address yourself to Martha,’ her sister, ‘not to me, when you introduce any subject at table. If the children want anything, you send them to Martha, not to me, their mother. I will take care that Martha does not stay here another week.’” As far as he could judge of it, he had no hesitation in saying it was a most infamous measure; it made a direct attack on all social relations, and it would do a great deal of mischief. It had not been asked for by the public. It had been introduced on two different occasions. On looking at the division which took place recently, and at one that took place some time since, he was inclined to think that it had been a great mistake to repeal the two-thirds clause, and to increase the number of members; for there was no doubt that before that clause was repealed, the members of the other House had marked their sense of the Bill in the most unmistakable manner—there could not have been found twenty in favor of it. If the Council had any regard for the future of the colony, they must treat the Bill in the same manner as they had marked their sense of the Non-Vested Schools Bill, the other day. A similar measure had been brought before Parliament in the mother country; he thought it had been three times before the House of Commons.

The Hon. H. G. SIMPSON: Seven or eight.

The Hon. H. B. FITZ: On the first occasion, it was carried by a majority of 90; on the second, by a majority of 70; on the last occasion, by a majority of 40; and he had no doubt that when it was introduced again there would be a much smaller majority for it than before, if it should be passed at all. He had taken the trouble to look through the Imperial

"Hansard," and, as referring to the social aspect of the question, he should take the trouble of reading to the House some extracts from a debate on the question in the House of Lords. On a measure of this kind, he held that honorable members were bound to seek authorities. They must not entirely ignore the Divine law with regard to it. And, if they went to the Divine law, they could not do better than quote the opinions of the highest authorities in the world, and those, he held, were to be found in the House of Lords in England. The Duke of Marlborough, though not a bishop, was a good man, who had not that gross tone of mind that he would feel disposed to marry a deceased wife's sister :—

"It was to the social consequences of the Bill that the most serious attention must be directed. Viewed in this respect, he could not but feel that this Bill was a bold and most dangerous stroke of legislation."

Like his (Mr. Fitz's) honorable friend, Dr. Hobbs', measure :—

"Since the first attempt had been made to legalise marriage with a deceased wife's sister, it should be remembered that a great change had taken place in the law of divorce in this country, and, instead of being confined to the wealthy classes, the very humblest persons were now able to obtain release from the marriage tie; and if divorce, which was previously within the reach of only a few, had now become, as it were, a legalised institution, why might a man not marry the sister of his divorced wife? Would there be no shock to public morality if that occurred? If a man might marry his deceased wife's sister, why should he not marry seven sisters in succession? Men had all kinds of tastes; but it would not be a pleasant spectacle to see a man taking sister after sister, having got rid of the former ones either by death or divorce. Again, if a man might marry his deceased wife's sister, why might he not marry the mother of his deceased wife? Why might a man not marry the daughter of his wife by a former husband? It was not unusual for two brothers to marry two sisters; but then suppose that one of the brothers became a widower and one of the sisters a widow; then the existing brother might marry his dead brother's wife, and thus do that very thing against which there was a strong and special prohibition in Holy Scripture? His noble friend might say that no one now asked for legislative sanction for such alliances, nor ever would ask for it; but he (the Duke of Marlborough) said, in reply, that the reason they were not asked for was, that the tone of public opinion had been kept pure by the legislative prohibition that had hitherto existed; but that, if any exception were now to be made, no one had the right to conclude that the first success obtained by the movement would not be made the standing point for further innovations. If this Bill should be passed, a few sessions only would elapse when other Bills would be introduced to extend still further marriages between persons of other degrees of affinity. What was the state of things in Prussia? Why, in Prussia, marriage between an aunt and a nephew was permissible, and the divorces in Prussia in three years numbered 7,810. Then there was that remarkable country on the

other side of the Atlantic, which members of the other House were so fond of quoting when they desired any radical change to be made in our home institutions. A strange state of things had grown up there in consequence of the prevalent lax notions of marriage. He found in a pamphlet, published by the noble and learned Lord on the Woolsack some years ago, a letter from a clergyman in America, stating that the law and usages of the different States were exceedingly diverse, and in many States divorces were common on account of the most trivial causes. The writer of the letter went on to relate a story of four couples in a dance, and of each man seeing before him a woman who had been his wife, but who had become the wife of another. But 'our American cousins' had rather a ludicrous way of putting things, and he had fallen in with an extract showing the effect of the lax notions respecting marriage in America. He believed the extract was taken from an American newspaper, and it was as follows :—

"I married a widow, who had a grown-up daughter; my father visited our house very often, fell in love with my stepdaughter and married her. So my father became my son-in-law, and my stepdaughter my mother, because she was my father's wife. Some time afterwards my wife had a son; he was my father's brother-in-law and my uncle, for he was the brother of my stepmother. My father's wife—*i.e.*, my stepdaughter—had also a son; he was of course my brother, and in the meantime my grandson, for he was the son of my daughter. My wife was my grandmother, because she was my mother's mother. I was my wife's husband and grandchild at the same time. And, as the husband of a person's grandmother is his grandfather, I was my own grandfather."

"It was added that the man destroyed himself, and the verdict was justifiable suicide."

Honorable members were perfectly aware that many old gentlemen who became widowers, and who had large families, were not satisfied with marrying again ladies about their own age, and that they frequently sought as wives young ladies—honorable members knew it amongst their own friends—and married persons not older than their own children. If the Bill passed, it would lead in a few years to a measure, consequent upon cases of that kind, to enable the son of such a man to marry his father's widow—his step-mother, in fact;—so that a man would be enabled to become his own father. The Council would ignore the position they occupied in the country, and the duty they owed to society, if they did not mark their sense of the Bill by sending it back in the waste-paper basket by the messenger to the person who had introduced it.

AN HONORABLE MEMBER: Hear, hear.

The Hon. H. B. FITZ: That was the way he regarded the measure. He felt painfully that if the Bill passed, the women of this colony might well exclaim: "Heaven save us from our protectors, or those who call themselves our protectors!" He held that no bachelor should give an opinion on the Bill—neither the Postmaster-General nor the honor-

orable member sitting behind him (Mr. Fitz), his honorable friend, Mr. Buchanan. They had not taken wives yet. Let each take a wife and consult her about legislating for another: after passing such an uncalled for measure, let each take a wife's sister into the house, and see what a life the wife would lead her—and his honorable friends too. But the question was too serious to joke upon.

The Hon. A. H. Brown: Hear, hear.

The Hon. H. B. Fitz: He called upon the House to treat the Bill as it ought to be treated. Who desired the measure? Nobody ever heard of the country demanding it. He never heard any desire expressed for it. The House would not do their duty if they did not reject the Bill. He moved, by way of amendment—

That the word "now" be omitted, with a view to adding at the end of the question, "this day six months."

The Hon. A. B. BUCHANAN said he should support the Bill. He could not at all agree with the Honorable Mr. Fitz that it was an infamous measure. Certainly there was nothing, he thought, opposed to it in Scripture. Marrying with a deceased wife's sister was not a marriage of consanguinity in any case, unless the first wife had been a cousin. With regard to those jealous women that the Honorable Mr. Fitz had treated the House to a dissertation about, the honorable gentleman had given expression to feelings which were a discredit to the sex; and he (Mr. Buchanan) said that women who would, under any circumstances, be jealous of their sisters, would undoubtedly be jealous of any woman that might be brought into their houses. He should most certainly advise any husband of such a woman to have no lady visitors. The honorable gentleman had treated the House to a rigmarole on relationship complicated by marriages: it seemed to be a labyrinth as intricate and puzzling as that surrounding Fair Rosamond's Bower, and he could not at all follow the honorable member through it. His great objection to the existing law was, that it was for the rich man, and not for the poor man. The House had before them the fact, that, in South Australia, it was legal for a man to marry his deceased wife's sister. A rich man could afford the trip, and could go to the other colony and get married; the poor man had not the means to do so, he could not make legal his marriage, and for him it was open adultery to cohabit with his deceased wife's sister. He (Mr. Buchanan) agreed with the Honorable Mr. Fitz, that honorable members should seek authority upon a question such as was now before the House. With the permission of the House, he would give his authorities, which he thought would be sufficient to support his view of the question without his saying anything more himself about the Bill. He had a pamphlet compiled by the Marriage Law Reform Association, containing a number of

facts and opinions showing the scriptural lawfulness of, and the necessity for, the legalisation of marriage with a deceased wife's sister; and he should quote from it a few facts. The first of those was, that—

"Marriage with a wife's sister is expressly legislated for in Leviticus xviii. 18, and there the prohibition is strictly limited to the lifetime of the wife."

The second was—

"The Jews, to whom, in their own language, the sacred oracles were given, have always understood this marriage to be permitted by Leviticus xviii. 18, and set a special mark of approbation on such unions, by allowing them to take place when there are young children, within a shorter interval after the death of the wife than in ordinary cases."

There were many other facts, but he should come to the opinions of men whom the House could not contradict. Dr. Musgrave, Archbishop of York, said—

"I cannot bring myself to believe that the Divine law prohibits a man from marriage with a deceased wife's sister."

Archbishop Whateley:—

"Your friend can no more convince me of the inexpediency of the existing law, than he can kill a dead man, for I am convinced already. If ever this question comes on when I am in the House, I shall be prepared to speak and vote accordingly."

The Archbishop of Canterbury, Dr. Tait, affirmed—

"Whether the question is considered in a religious, moral, or social point of view, such marriages are unobjectionable; while in many instances they contribute to the happiness of the parties, and to the welfare of motherless children, and among the poor, have a tendency to prevent immorality."

The late Lord Palmerston said—

"Not being of opinion that there is any moral objection to the contracting of these marriages, and believing that the law as it stands is the cause of a great deal of misery and social evil, especially among the middle and lower classes of the community, I shall with great pleasure give my vote to the motion."

Earl Russell:—

"I must say that I have satisfied myself, that there is not any religious prohibition of these marriages."

He further added—

"I think that there is a great and practical evil which we cannot very well refrain from remedying. The evil is not among the upper classes of society; but there is no doubt, partly among the middle classes, and much more among the lower classes, a feeling that, after the death of the wife, there is no person so fit to take care of the children as the beloved sister of that wife."

"I think where persons feel that they can without scruple contract such marriages, that they should be allowed to do so."

That was what he (Mr. Buchanan) said, in the present case. It should be left to pec-

ple's consciences to marry or not. The House should not legislate against people's consciences in the matter of marriage with a deceased wife's sister. The Right Honorable W. E. Gladstone, in the debate on Mr. Chambers' Marriage Bill, July 21, 1869, said—

"He felt bound to do what he could to assist the honorable member in charge of the Bill. For many years he had felt the pressure of this subject to be extreme."

The Right Honorable John Bright—that was a name honorable gentlemen would pay attention to—spoke as follows:—

"He had never heard yet, and he felt satisfied he never should hear, an argument such as an honest and learned lawyer could offer to a learned judge against the proposition of his honorable and learned friend the member for Marylebone (Mr. Thomas Chambers)."

"An accumulated sense of the inconveniences arising from the present state of the law, and a knowledge of the grievous and fearful cases of injury and suffering arising from that law, made him feel he could not give a silent vote on that occasion, and that he ought to use any argument that occurred to him, with the hope of influencing some of those who heard him to give their votes for a final and satisfactory settlement of the question."

"He had heard this question discussed many times in the society of women—women of cultivation, and admirable in their lives—and yet he must say that he never heard in that society any of those fearful vaticinations which he had heard from the opposition side of the House."

"He held that personal freedom should be the great rule in these cases. Men and women were themselves the best judges, on the whole, of the matrimonial contracts they should make."

"He asked the House to support the Bill on grounds of common justice, as between the rich class and the poor."

"He asked the House by an emphatic vote to affirm the principle—for this was all he asked—of personal liberty for the men and women of this country in the chief concern of their lives, as against a law in respect of which there was no pretence that it had a foundation in nature, or received a sanction from revelation."

That was from a very long speech. Then, again, Lord Chief Justice Denman, in a powerful speech, said—

"If the Act (of 1835) has notoriously failed in its operation; if these marriages, though discountenanced by the legislature, have become more numerous, not only among the lower classes, a large proportion of whom must ever remain ignorant of the existence of this and similar interferences by law with freedom, but among the cultivated, the thoughtful, the conscientious, the exemplary; if the stigma set by the law is not stamped by the public opinion; if the offenders are as well received as before, and are even respected for acting on a just view of scriptural text, perverted by erroneous interpretations; in such case it will surely be more politic to make the law consistent with reason, than in a fruitless endeavor to bend reason to arbitrary law, to vex and persecute where we cannot prevent, to 'curse

whom the Lord hath not cursed, and defy whom he hath not defied."

Lord Chief Justice Cockburn, Bishop Heber, Dr. Vaughan, the Master of the Temple, were other authorities on the same side. The latter said:—

"I am decidedly in favor of a change in the law regarding marriage with a deceased wife's sister. The argument against them from *Scripture* has always appeared to me to break down utterly. And my experience of social life, among the poor in a northern town, leads me to lament the existence of any arbitrary hindrance to the *legal* union of two persons whose *illegal* union is the certain alternative."

He (Mr. Buchanan) might cite, further, the Bishop of Lincoln, Dr. Kay; Dr. Stopford; Lord Auckland, Bishop of Bath and Wells; and Dr. Bickersteth, Bishop of Ripon, who said—

"Believing, as he did, that *Scripture*, so far from prohibiting, sanctioned these marriages, it was a grievance of which the people might justly complain, that the law of the land was out of harmony with the revealed will of God."

Dr. Fitzgerald, Bishop of Cork, said—

"These marriages are not contrary to the Divine command. The Scriptural argument against them seems to me to break down at every step. In proportion as, by our prohibitions, we multiply the opportunities of temptation, and prevent the enjoyment of any seeming advantage, not evil in itself, in the same proportion we extend and increase the power of the enemy of mankind."

Benjamin Franklin admitted no objection to such marriages. John Fry put the argument in this way:—

"Again, suppose a man had married a virtuous woman, every way fit for him, with whom he lived happily till it pleased God to take her off by death, leaving him a widower with young children, and his circumstances such as made it fit for him to marry again; and his deceased wife had a maiden sister much like herself, and, therefore, in all accounts fit for him, who, on account of his kind and obliging behaviour to her sister, had conceived so good an opinion of him, and such fondness for his children, as engaged her consent to supply her sister's place: can any reasonable person say it would not be fit for him to marry her?"

Cardinal Wiseman, a Roman Catholic, was asked—

"Do you consider that passage in *Leviticus* (xviii. 18) as prohibiting marriage with a deceased wife's sister, or merely as saying that a man should not take two wives together, at the same time, being so related?"

And his answer was—

"Certainly, that verse appears to have the latter meaning, that two sisters should not be living together in the same house, as wives of the same person. . . . Is such a marriage held by your Church as prohibited in *Scripture*? Certainly not. It is considered a matter of ecclesiastical legislation."

The Chief Rabbi of the Jews said—

"It is not only not considered as prohibited, but it is distinctly understood to be permitted;

and on this point neither the Divine law, nor the Rabbis, nor historical Judaism, leaves room for the least doubt—I can only reiterate my former assertions that all sophistry must split on the clear and unequivocal words, Lev. xviii. 18, *in her lifetime*."

The Rev. Thomas Binney, a Dissenting Minister, was also quoted. Lord Macaulay had written:—

"I am truly glad to find that my opinion on the subject of the Marriage Bill agrees with that of the most respectable body in whose name you write."

Lord Wodehouse said—

"Among the poorer classes it cannot be denied that the law causes great immorality and unhappiness."

Sir George Cornwall Lewis gave his assent to a Bill for the remedying of that state of things. The late Duke of Norfolk, a Roman Catholic, said—

"Seeing that it was not against the law of God—seeing the great social evils which arose from the restriction, and believing that there was no comparison between the social advantages and the social disadvantages arising from this cause, he should give the measure his cheerful assent."

The Earl of Ellenborough was "sincerely favorable to the object of the Marriage Bill." Sir David Brewster said—

"I have read, with great attention, the pamphlets you were so good as to send me, on the marriage question, and I cannot conceive how any intelligent and right-minded person can resist the force of the arguments they contain. I consider it clear that the Old Testament directly permits marriage with a deceased wife's sister."

All sects supported the change proposed by the Bill. The Society of Friends held that

"The plain and obvious meaning of the 18th verse of Leviticus allows the marriage with a wife's sister after the death of the wife."

Thomas Chambers, Q.C., said—

"I altogether deny the assertion that to legalise marriage with the sister of a deceased wife would injuriously alter the moral tone, relations, and comforts of domestic life, as regards sisters-in-law. Such a statement is a libel on English domestic purity—a slander and nothing else—for which there is not the slightest foundation. It ought to be met with a peremptory and indignant denial."

"The grievance of the present state of the law surely deserves to be remedied. The best subjects are those who suffer most."

"It is among the poor that these marriages principally occur, amongst whom they are the greatest blessing in a time of sorrow and domestic bereavement. The House of Commons, representing now the whole of the people more completely than it has ever yet done, has a right to speak in the name of the poor as it has never spoken before on this subject."

Those quotations, which were only a tenth part of what he (Mr. Buchanan) could give to the House, prevented the necessity of his

saying more on the subject. He trusted that the Bill would be supported by the House.

The Hon. H. G. SIMPSON said he should support the amendment of his honorable friend, Mr. Fitz; and, before going into the matter, in the brief manner which he proposed to do, he should first declare that he wished at once to sweep away all the cobwebs—for they were nothing else—so far as the scriptural argument was concerned. The Honorable Mr. Buchanan had quoted, at length, authorities on the scriptural argument. He (Captain Simpson) did not for one moment pretend that the scriptural argument influenced him at all. He knew that the Jews, under the Mosaic dispensation, did certain things; but the House had to look to the state of society in which we lived, and to legislate as they thought best for that state of society, and not be led away by anything—Divine, as no doubt it was—instituted in the past days for the governance of the Jews. He was convinced that, so far as the Jewish institutions went, they permitted not only marriage with a deceased wife's sister, but enforced marriage with a deceased husband's brother: one was permitted, the other was enforced by law. If one thing was good, the other thing was good; and if the Council must go to the Mosaic books for their guidance, they must hold to both the things that were good.

The Hon. W. HORBS: Hear, hear.

The Hon. H. G. SIMPSON: He was glad to hear the honorable gentleman say so. He did not combat the Bill on any scriptural ground; he took it in its social bearings, as it affected the whole of society, every community; and he dealt with it on that ground. He thought, as he had said with regard to another Bill lately before the House, a measure dealing with the marriage law should not be left to be the crotchet of any private member.

The Hon. W. THORNTON: It was not a Government measure.

The Hon. H. G. SIMPSON: He agreed with his honorable friend; but it did not follow that it should not be. It had been remarked by his honorable friend, Mr. Buchanan, that the existing law was unjust to the poorer classes, because a rich man could go to South Australia and get married to a deceased wife's sister, and that the marriage would be perfectly legal when he came back here. In the first place, he (Captain Simpson) questioned the correctness of the honorable gentleman's law. The question was tried in England some time since. Such a marriage was legal in Germany. Persons went over there from England to get married, and came back, thinking the marriage was legal under the English law; but it was not, as was proved in many cases; and it was decided that no such marriage, however legal in Germany, would hold good in England, so far as regarded inheritance and the legitimization of children.

That argument of the honorable gentleman, therefore, had no weight at all, because two wrongs could not make a right. If it was a fact that the marriage was wrong, it was no argument that, because a rich man had the means of evading the law, therefore a poor man must be given the means of getting over it. If the question was good, let it stand upon its own merits. With regard to the history of the question in England, he thought the Honorable Mr. Fitz had rather underrated the number of times it had been before the Imperial Parliament; instead of three times, it must have been some twenty times. For the past ten or twelve years, on each occasion it was brought forward with steadily decreasing majorities in favor of it in the House of Commons. On the last occasion, three or four years ago, he thought he was correct in saying that the measure was carried by a majority of twenty-three only, after having been periodically carried by a majority of eighty or ninety. He thought that, if ever it was brought forward again, in the present Parliament of Great Britain, there was not the smallest doubt it would command a much smaller majority than on the last occasion, if it would not have only a minority to support it. He should now turn to the point of view from which he looked at the question before the House, having cleared away the scriptural argument, and holding that this colony had nothing to do with the practice of the other colonies. He looked upon it purely from the social point of view. He knew the case of a member of the present Parliament of Queensland, and he knew a great many other cases in England, where, a wife dying and leaving a young family, her sister came into the household and lived there, and brought up the children, and behaved as a second mother to them, and, so far as care and affection went, was as good as their own mother, until they were sent out into the world. In every one of those cases that he knew, if there had been a possibility of her brother-in-law marrying her, the wife's sister would never have been able to have gone into his house and made a "home" for him and his children. If the Bill became law, no sister of a deceased wife would ever dare to go into her brother-in-law's house, unless she married him first; and, more than that, no man would dare to take his sister-in-law into his house unless he married her. Her character would be taken away by scandal, in such a case. Of that, he (Captain Simpson) was certain. For that reason alone, the Bill would be mischievous to society, and an injury to the community; and that, to his mind, was one of the strongest arguments against it. The question was a woman's question more than a man's; and he was convinced that if it was possible to take the opinions of the women of this colony, or of any other country in the world, they would be found fifty to one against the measure.

The Hon. A. H. BROWN was understood to say that he was disposed to support

the Bill; and he should briefly refer to the remarks of the honorable gentleman who was first in opposition to it. The Honorable Mr. Fitz spoke in terms of condemnation almost of the introducer of the Bill, and said he considered the Postmaster-General in a position of disability to take the part he did, because he was not sufficiently fortunate to have married. No person could be in a better position than the Postmaster-General to place the matter fairly before the House, because men with wives might feel, whatever their personal convictions or ideas, some delicacy in expressing them, because they were married. It was, therefore, unjust to the Postmaster-General to have raised that objection to him. The Honorable Mr. Fitz made a remark which was hardly proper, or consistent, when he spoke of the other House of Legislature as evincing a gross tone of mind.

The Hon. H. B. FITZ: Hear, hear.

The Hon. A. H. BROWN: He could not accord with that view of the matter, because he believed that, in the other Chamber, there were men of as pure ideas and refined taste as in the Council or any other chamber whatever. They had acted for the best. What they had done, they had done in a conscientious manner. The Honorable Mr. Fitz had passed in review certain women—perhaps they were not his acquaintance, but persons of whom he had heard—and had described them as worried to death by the presence of their sisters, whom they never gave a moment's peace in their houses. He (Mr. Brown) could not conceive that society was usually of that description. His own impression was that in society at home, as in the colony, the presence of sisters in a household was a great charm; and he thought that any supposition to the contrary, that their presence was characterised by purity of feeling, should be deprecated. A similar Bill to the one now before the Council had been received with favor by the House of Commons; on one occasion there was a majority of about seventy in support of its passing.

The Hon. H. B. FITZ: Amongst 648 members.

The Hon. A. H. BROWN: That was a large majority of intelligent gentlemen, quite as capable of judging of the question as any in the Council. His own opinion was that the question was a very simple one, and that it should be left to the inclination of the women affected to decide. Why should the House debar them, if it was their inclination to marry the husband of a deceased sister? He did not see why a law should be in existence for the purpose of preventing them. In many instances, especially amongst the poorer classes—those who were dependent upon the assistance of an unpaid servant—where there was left by the death of the wife a large family, the wife's sister, not having previously lived in the home, felt guided by duty and by a sense of love for the children to take charge of the household;

and, in such a position, he questioned very much, if it would not be good policy on the part of the Legislature, to give that woman the opportunity of marrying her deceased sister's husband—rather than that ill results should ensue. Some objections on that score advanced during the discussion, were rather in favor of the Bill; that if such a measure became law, no sister-in-law would go into the house of her deceased sister's husband. He could not conceive that there were many women who would have such a feeling. But men could only judge by their experience; and, really, judging from the opinions he had heard expressed on the subject, he thought that the honorable gentleman who had urged that objection must be mistaken. It was said that the question was one for women more than men. He (Mr. Brown) admitted that, and that a woman should follow her inclinations. It was not proposed to enact that a woman should marry her deceased sister's husband; it was left to her inclination. If she saw no disability; if the promptings of her moral feelings were such that she saw no impropriety in such a marriage; why should the law step in to prevent it? Exception was taken very much to interference with marriage, in the first instance; but the law as it stood attempted to interfere upon a very delicate point with persons who had had some considerable experience. If a man saw no impropriety in the alliance with the sister of his deceased wife, of whose kindness as compared with other women, he was most likely to have cognisance, why should the law step in to stop it? If there was policy in interfering with marriage, there was blood-relationship of cousins, for instance; but the law did not interfere with that. There was no objection to such marriages; but where there was only an accidental relationship, the law did interfere.

The Hon. W. THORNTON said he was just in the same position as other honorable members of the House, and he had not been influenced in the slightest degree by what the Honorable Mr. Fitz had urged against the Bill. It appeared that that honorable gentleman had not travelled in vain in the southern colonies; he had managed to get a good many ideas from political men, Colonial Secretaries, and others, whom he had met, and of whom he on occasion told the House. Perhaps if he had mixed a little with ordinary people, he would have gained some enlightened and liberal views. The honorable gentleman was singularly unfortunate in his quotations against the Bill. The Duke of Marlborough was not a very considerable authority, by any means; whilst the Honorable Mr. Buchanan quoted eminent divines and statesmen of the United Kingdom who were favorable to the Bill. That honorable gentleman proved beyond a doubt, by the utterances of those men, that there was nothing whatever in a religious or moral sense against the Bill.

The Hon. H. B. FITZ: He had quoted from the English "Hansard." The Honorable Mr. Buchanan had quoted from the work of a secret society.

The Hon. W. THORNTON: "Hansard" might be wrong; and, of course, the pamphlet might be wrong. He rejoiced to see the Bill introduced into the Council. It appeared to him a sign that the Parliament of Queensland had become more enlightened as time went on, and that the antiquated prejudices that formerly existed against the measure, and the absurd objections that were held against the alliances now proposed to be legalised, were disappearing, as they came to be examined by the light of reason and truth. The reception the Bill met with the other day, in another place, as contrasted with previous occasions, showed that no legal objection existed to marriage with a deceased wife's sister. The second reading of the Bill was passed in the Assembly by a majority of 20 against a minority of 7, which showed that it was certainly a very popular measure. Shortly after Separation, in a time which he supposed future historians would call the dark age of the colony, honorable members would recollect that a similar Bill met with a very different reception in that House. Mr. Robert Cribb, who had retired into private life, had brought forward the Bill, and it had been ignominiously rejected. People looked upon it with a kind of horror. But that gentleman had lived long enough to recognise the force of the axiom, *Magna est veritas et prævalebunt*: the truth had at length come out, and prejudice had gone. He (Mr. Thornton) need not quote authorities in favor of the Bill, and he need not now rely on the number of high names read to the House in support of its object, though the array was very strong indeed, as shown by the Honorable Mr. Buchanan. The Bill had become law in South Australia, it was adopted by the Parliament in Victoria, and it was very nearly becoming law in England, as most certainly it would have passed the House of Lords but for the number of bishops who banded together to throw it out. Their action only intensified the feeling against bishops or clergymen having any part at all in legislation. Their lordships were not without imitators in other British possessions that he could mention. It might be very often a matter of great convenience to a man, who consulted the interests of his family, to marry the sister of his deceased wife. It would be, perhaps, impossible to find any one with the same feeling for the children as an aunt on the mother's side, and no one would probably take so much care of them as she, the sister of their deceased mother. There was some force in what had been said, about the law being for the rich and not for the poor: that a rich man could go down to South Australia and get married there, while the poor man could not afford to do so. In that respect, certainly, the former had a great advantage over his humbler fellow, and in a

matter as to which there should be no advantage at all—in the choice of a wife. The Honorable Captain Simpson laid great stress upon the sort of jealous distrust that would exist on the part of married women towards their sisters, if this Bill should become law: that a wife would view her sister in the house as a probable successor to her husband, in the event of her death. He (Mr. Thornton) did not believe that women, as a rule, bothered their heads very much as to who would succeed them as wives. If they ever did contemplate that final separation from their husbands which must come to all sooner or later, it was far more likely that they thought who would best take care of their children when the father was left alone over them—who would be kindest and best in the place of their mother: they were not actuated by selfish prejudices, but anxious only for the welfare of those most dear to them, who would want other care after they were gone. A sensible woman would feel that a sister would make a far better mother to her children than any other woman, should they be left to the proverbially cold-hearted step-mother. He did not say there were not good step-mothers; but there were many who treated their husband's children by a first marriage in anything but the way that they ought to do. He had heard of instances of wives on their deathbeds begging their husbands, if they did marry again, to marry their sisters, because their sisters would make the most suitable step-mothers to their children. For the life of him he could not see why there should be any objection to the Bill. There was nothing compulsory in it. If any person had a conscientious objection to marriage with a deceased wife's sister, in God's name, abstain from it! In New South Wales, the other day, such a Bill was introduced in Parliament, and it met with very strong support; but, unfortunately, in the Upper House there were too many men with antiquated ideas, and afraid of change, and they voted against it. As to that improbable difficulty advanced by the Honorable Mr. Fitz, of a man becoming his own grandfather, he must say that it did not require consideration; nor did he ever know an instance of a woman marrying the brother of her deceased husband, or that a special law had been asked for to allow it.

The Hon. H. B. FITZ: They would put it in, in committee.

The Hon. W. THORNTON: The honorable member's ideas were most visionary. No doubt there were cases in this country, for he knew them himself, where most estimable people, religious and highly moral people, had contracted such marriages as the Bill was calculated to place beyond doubt; and by those people the Bill was regarded anxiously. It was a question whether they were living in a state of concubinage or not; and the passing of the Bill into law would set all doubts at rest. On the

score of right and propriety, he should support the Bill.

The Hon. G. SANDEMAN observed that the subject was one in which he had long taken an interest, and, from having been in the other House of Legislature, he had heard it discussed before. He always opposed it and voted against it. Taking a retrospective view of the question of marriage with a deceased wife's sister, he looked upon the origin of it at home. It did not originate with the poorer classes, but with the richer and upper classes, who had transgressed the law, and who were anxious to be relieved from the responsibilities which they had incurred. He was extremely sorry to have heard the expressions of opinion given by his honorable friends, Mr. Buchanan and Mr. A. H. Brown. He was very much in accord with those honorable gentlemen on many subjects; but, on the present one, he confessed that he did not agree with them. And, with reference to the quotations read by the Honorable Mr. Buchanan from a pamphlet which was published anonymously by a society that had taken considerable interest in the marriage question, although the authorities cited were high and the deductions conclusive in accordance with the honorable member's view of the subject, yet there were other authorities quite as high who had given expression to opinions on the subject adverse to that view. In the House of Lords, the late Lord Chancellor, Lord Hatherley, a man of high standing and great experience, not only from having been a member of that House, but also from having been a very old member of the House of Commons, expressed himself very strongly upon the subject; and, with the permission of the House, he (Mr. Sandeman) should quote what had been said by the noble lord:—

"The first time I opposed this Bill elsewhere a clergyman wrote to me saying that—'You have ventured to say that the poor do not desire this Bill. I know twenty or thirty cases in which widowers were ready to marry their deceased wives' sisters.' I replied that I would recant all I had said if he would state, on his own authority, that he was prepared to furnish names and addresses, so that I might inquire into the facts. I never heard anything more from him. I now come to the reports got up—I can use no other expression—by the persons who favor these marriages. A Royal Commission was appointed, which took the information presented to them; but, of course, had not the means of seeking out for information on the other side, while two able solicitors were regularly retained, and furnished information which supported their view in an elaborate form. In this way we got the numbers—1,608 of these marriages among the rich, and 40 among the poor—a proportion of 160 to 4, or 1 in 40. I believe that is something near the proportion among these classes; for I myself, several years ago, took some little pains to inquire in my own neighborhood, in two parishes containing 60,000 people and 40,000 poor, and, after employing a very active person to search, I could only hear of one such marriage. However, one of the

newspapers, which objected very strongly to my view, said that a city missionary, who had made inquiry in the same district, had found two more. So, after scouring the whole field, we found three such marriages among 40,000 poor. But then the anonymous gentleman, who is chiefly concerned in this agitation, published a statement in which he thinks he has got me completely; for he says that in these parishes of St. Margaret and St. John he has found 102 such marriages. He does not say among the poor, and as there are 60,000 residents, of whom 40,000 are poor persons, I think it is likely he is right; for your Lordships will see that the proportion of 100 to 3, or 1 in 33, is not very different from the proportion ascertained by the Royal Commission. In the face of facts like this it is idle to talk of this being a poor man's question. But I will tell your Lordships what is a poor man's question, and that is, the sort of house in which poor men usually live. Considering how miserable are their abodes, and how serious are the temptations to which they are exposed there, I am astonished that there has not been more intercourse of this description. I am sorry to say I have found as many cases of actual intercourse with their own sisters as with their wife's sisters. Such evils arise entirely from our not taking care that poor people should be better housed. But it supplies no argument in favor of this Bill. I come now to the origin of the Bill, and the reasons which induce me—acting, as I believe, in perfect consistency with the views I have always expressed respecting the position of this to the other House of Parliament—which induce me to ask your Lordships to stay this Bill in order that it may be further considered. The noble Marquess who spoke early in the debate (the Marquess of Lansdowne) said he did not care whether the Bill were carried in the House of Commons by agitation or not. Well, the fact that a Bill is carried by agitation is nothing against it, for the Corn Laws were repealed, and the Reform Bill was carried, by agitation; and if we had heard Mr. Bright, who made such splendid speeches on both those topics, addressing large sympathizing public meetings on the grievous wrongs caused by prohibiting marriage with a deceased wife's sister, we should, perhaps, be guided to the conclusion that the people wished for a change in the law. But I have known no public meetings of the sort, though I have attended some on the other side. Lecturers, indeed, there have been, I believe, sent by the society which has set all this in motion. And now a word or two about this society. There were two or three very wealthy men who got themselves into this scrape, and they formed what was called 'a Committee for improving the Marriage Law.'

He (Mr. Sandeman) believed that the pamphlet from which the Honorable Mr. Buchanan quoted was from the same society.

The Hon. A. B. BUCHANAN: What year was that in?

The Hon. G. SANDEMAN: 1870; the year that the Bill was thrown out by a narrow majority:—

"That committee had existed for 24 or 25 years. Rather late in the day—I think after the last time this Bill was thrown out by a narrow majority—we thought it time to see whether we could not diffuse some information on the other side."

The quotations had been read from the same document, he believed:—

"We got hold of the publications of this body. They were always anonymous, and still are; but we put out our names—some 80 of them, and among them was the right rev. Prelate the Bishop of St. David's, who has been quoted this evening as being opposed to the Scriptural prohibition of these marriages. No doubt, the quotation by the right rev. Prelate (the Bishop of Ripon) was a perfectly accurate one; but the fact remains that the Bishop of St. David's, taking the ground of social expediency, actively opposed this measure. My Lords, we found a systematic misrepresentation of the law by this society, which declared that these marriages were lawful in 1835, when Lord Lyndhurst's Bill was introduced, at the instance of some noble Lord—that was the form in which it was generally put—and then they were for the first time made illegal. Now, this was a gross misrepresentation."

He had reason to believe that the quotations which the Honorable Mr. Buchanan had read were from a pamphlet issued by the same society as Lord Hatherly had spoken of in the speech he was reading. The society might have been joined by members of both Houses of Parliament; but still, he said, that the authority he had just read in opposition to the Bill was of equal standing to any that the Honorable Mr. Buchanan had quoted in favor of it. Now, as regarded the social part of the question—as a layman, he felt very diffident of going into the question from the scriptural point of view—he should rely upon the opinion of Lord Lyvedon, a nobleman well known formerly, when he was in the House of Commons, from whose speech in the House of Lords he should quote the following:—

"He rested his objection to this Bill entirely upon what would be the social effects of its passing, in considering which their Lordships must proceed entirely upon their own views, for they could not bring to bear any experience, while there were very few facts on which they could rely. Why alter a system which had, according to the Lord Chancellor, existed since the 6th century 'and the conversion of Ethelbert?' He denied that this Bill was so universally popular. His noble friend (Lord Houghton) had truly said it had passed the House of Commons by a large majority; yet, without wishing to depreciate that expression of opinion, he could not refrain from pointing out that, in some cases, the votes of members of the House of Commons were dependent on the ideas of a handful of their constituents."

HONORABLE MEMBERS: Hear, hear.

The Hon. G. SANDEMAN (*reading*):—

"Let their Lordships look to the number of petitions that were presented in favor of the admission of Mr. Newdegate into nunneries—(*laughter*)—he meant his motion for an inquiry into conventual establishments. For that scheme there were 249,637 signatures—for this, only 26,230! Public opinion, in this form, had not shown itself in favor of this measure to anything like the extent to which it was provoked by the other

proposal, now generally rejected. The issue raised by the Bill was an extremely narrow one. Why was it confined to one degree of affinity? Why was the aunt to become the best step-mother? All women were naturally fond of children, and kind to them; but, if they had any of their own, jealous of their husband's children by another woman, even if that woman was their sister; and why did not the Bill include wives' nieces, or daughters by former husbands? It was well to suppose the tenderness of a wife's sister; but of what much greater value to a widow would be the assistance of a husband's brother. Yet this marriage was never proposed for the advancement in life of the children. How did this agitation arise? Not from those who wished to alter the law, but from those who had already violated it; who, in their amorous maturity, could not control their passions, and now sought to be put on a footing with those whose modesty or morality had induced them to obey the law."

The Honorable W. Thornton should not be too confident in his own view: that view was not quite correct. He should not have referred in the manner he had done to one of the highest authorities in the world. There was not, he (Mr. Sandeman) believed, a higher authority than the House of Lords, comprising members of the very highest education and most correct views with which man could be gifted. He objected to the Bill mainly on social grounds. The House should pause before passing such a Bill, as they ran the risk of disturbing those relations which existed already in the social fabric. The subject was of great importance and one upon which a great variety of opinions were held. He did not think that, because the Bill had been passed in another place, it became the Council to bow to what had been said on several occasions: "Why should you obstruct that which has been approved elsewhere?" He maintained that it was the duty of the Council, and honorable gentlemen were placed there, to take an independent part in legislation; and, in their discussions, they were to act independently, according to their convictions, on all subjects that came before the House. Therefore the argument, that because the Bill had passed in another place the Council ought to pass it, should have no weight with honorable members. For his own part, he should oppose the Bill.

The Hon. W. D. Box said he should oppose the second reading of the Bill, which was the result of an agitation got up by a very small number of persons. The quotations which had been read by the Honorable Mr. Sandeman did away entirely with the notion that the Bill was for the benefit of the poorer classes. If the Bill should become law it would take away from home life one of the most agreeable associations, and destroy one of the most charming relations, in the family circle. As the law now stood, a wife's sister was the sister of the husband also; and a man could not marry his own sister. If the Bill passed, the wife's sister would no longer

be the husband's sister. Every argument about the sister of the deceased wife being the best to take the place of the mother to the orphan children, was against the Bill. If the calamity befell a man, that he lost his wife, the proper person to take charge of the widower's household and children was his sister—his deceased wife's sister;—for he contended that his wife's sister was his sister. Pass the Bill, and it would take away that true relationship between them, for a man's wife's sister would be no longer his sister.

The Hon. J. F. McDougall said he did not like to give a silent vote on the Bill; and in rising to speak upon it, he said it was his intention to oppose it. He did not look at the question in its religious, but in its social aspect. If the Bill passed, its effect would be to disturb the harmonious relations of families and to open the door to all kinds of annoyances by its unnecessary interference with the present marriage laws. Very soon, there would be another proposed amendment, to legitimatise the marriage of uncles with their nieces. He believed the law of affinity to be as binding as the law of consanguinity. Very much had been said, and many authorities had been quoted. He should not detain the House further with any remarks of his own; but he should quote a portion of a speech that the Honorable Mr. Sandeman had anticipated him in bringing before the House, and that the honorable gentleman had omitted. The following passage expressed his views exactly; it was from the speech of the Lord Chancellor:—

"As the noble Duke (the Duke of Marlborough) had said, with regard to degrees of consanguinity and affinity, it is obvious that you must draw the line somewhere; and why should we disturb the line which has been laid down for 1,200 years? It is obvious that there is great danger in disturbing the existing restrictions, unless we are prepared to substitute something better in their place; but this Bill would unsettle everything and settle nothing, and it would not give satisfaction to the poor, but only to a comparatively small number of rich persons, who have entered into these engagements with their eyes open, by the advice of an anonymous society which has thought proper to mislead them."

He believed that the Bill was entirely for the rich man, and not for the poor man. He believed that if the cases were searched for and brought to light, there would be found ten of the former to one of the latter.

Question—That the words proposed to be omitted stand part of the question—put, and the House divided:—

Contents, 9.	Not-Contents, 8.
Hon. W. Wilson	Hon. D. F. Roberts
" W. Thornton	" G. Harris
" J. Gibbon	" W. D. Box
" F. H. Hart	" H. B. Fitz
" A. B. Buchanan	" G. Sandeman
" W. Hobbs	" H. G. Simpson
" F. T. Gregory	" W. D. White
" G. Thorn	" J. F. McDougall.
" A. H. Brown.	

Resolved in the affirmative; and Bill read a second time.

On the question for the committal of the Bill to stand an Order of the Day for to-morrow.

The Hon. H. B. FITZ objected that there was a thin House, to-day, and that the Bill, which attacked the very foundation of society, had been carried by a bare majority only, and should not be hurried through the Council. He moved, by way of amendment, that the consideration of the Bill in committee stand an Order of the Day for Thursday next. He expressed his astonishment that a Bill coming before the Council, in such a way, should find amongst them so many gentlemen who had such a gross tone of mind as to vote for it.

The PRESIDENT: The honorable gentleman is out of order in using such language.

The Hon. A. H. BROWN said he must call the honorable member to order, and request him to withdraw such an imputation as "a gross tone of mind" upon honorable members who differed from him.

The PRESIDENT: No doubt the honorable member is out of order, and he is bound to make an apology.

The Hon. H. B. FITZ: He certainly apologised to the Honorable A. H. Brown. No doubt, he was the only gentleman who had not such a tone of mind.

The Hon. A. H. BROWN: He presumed that it was to the House the honorable gentleman must apologise.

The PRESIDENT: The honorable member must apologise, as he is bound to do, to the House; and he must withdraw the expression.

The Hon. H. B. FITZ: He withdrew the expression, and he apologised to the House. But, he must still say that he was sorry, as he was surprised, that there should be such a majority in the Council to vote for such a Bill.

The POSTMASTER-GENERAL said he must oppose the amendment. There was a very large House, the Bill had been well discussed, and it should proceed through its several stages regularly. If honorable members were absent, it was their own fault.

The Hon. H. G. SIMPSON contended that honorable members who were absent in the country should have an opportunity of recording their vote on the Bill, which was too important to be allowed to pass by an accidental majority of one. There were four honorable gentlemen absent from the House, who would vote against the Bill. The Postmaster-General was ill advised to force such an obnoxious measure on the House; and, if he did so, he would find the future progress of business in the Council affected by his conduct.

The Hon. G. SANDEMAN regretted that any acrimonious or unpleasant feeling should have arisen; and he took the same view as the Honorable Captain Simpson.

The Hon. A. H. BROWN contended that there was no reason for postponing the con-

sideration of the Bill, which had been before the House sufficiently long for every honorable member who could attend to be in his place and record his vote for or against it.

The Hon. W. HOBBS referred to the refusal of honorable members to comply with his request to postpone the Non-Vested Schools Bill, and said that as the postponement now asked for was only to collect reinforcements to defeat the Marriage Bill, the Postmaster-General should proceed without delay.

The Hon. J. F. McDONNELL said that considering all the circumstances, it was monstrously unfair of the opponents of the Bill to persist in forcing it forward.

The Hon. W. THORNTON considered that the most conclusive reasons had been advanced for pressing the Bill forward. Honorable gentlemen interested in the measure should have taken the trouble to have attended the House to vote for or against it.

The Hon. W. D. BOX begged the Postmaster-General to give way gracefully. Nothing had ever surprised him more than the division. He had not thought it possible, that the Upper House could have given a majority for such a measure.

The question was put and carried on a division:—Contents, 9; Not-contents, 8. Consideration of the Bill in committee, ordered for to-morrow.

SUPREME COURT BILL.

The House went into committee for the consideration of the Legislative Assembly's amendment on the Council's amendments in this Bill.

The amendment in clause 22, not to except Brisbane in regard to right of audience before a single judge, granted to attorneys, was concurred in.

The Bill was reported, and the report was adopted, and the agreement of the Council was ordered to be communicated to the Assembly in the usual way.