

bands,—for, with good husbands, he maintained, living together as husbands and wives should, such a state of affairs as this measure contemplated would never be thought of. But the Bill introduced into the English Parliament last year went a great deal further than this Bill proposed to go, and we had not yet had the benefit of experience as regards the new English Act, which did away, practically, with the old idea that husband and wife are one, and made them, to all practical intents, separate persons altogether, even going so far as to provide that a husband may be tried for stealing his wife's goods, as in the case of any other person, and as if they had nothing in common. That, however, was legislating in a direction and to an extent the wisdom or expediency of which had not yet been verified by experience, and one which he did not think that House would consent to follow. But the law as it was now proposed to make it here had worked well and satisfactorily in the mother country—so well and so satisfactorily that he had never seen, since it came into operation, any single organ of public opinion, newspaper or otherwise, that had argued against the working of it. So smoothly and silently had it worked, that, in his own experience, he assured the House he had never met a man who had suffered from it. Perhaps that might be because all his friends were people who lived happily together as husbands and wives ought to live; but he certainly had never heard of a solitary case of complaint against the working and operation of the Act. He therefore hoped the House would assent to this Bill. He was sure, if they did so, they would feel that they had adopted an Act which might be regarded as one of the most useful and beneficial measures of the present century.

The motion for the second reading was then agreed to, and the House agreed to go into committee on the Bill next day.

The House adjourned at half-past nine o'clock, p.m.

LEGISLATIVE COUNCIL,

Thursday, 16th August, 1883.

Metalling Guildford Main Street—Eastern Railway, Second Section: Expenditure of Loan—Electric Telegraph Bill: second reading—Consideration of Message (No. 19) re Grand Juries Abolition Bill—Dog Bill: first reading—Married Women's Property Bill: in committee—Adjournment.

THE SPEAKER took the Chair at noon.

PRAYERS.

METALLING GUILDFORD MAIN STREET.

MR. STEERE repeated his question, as to whether it was the intention of the Government to complete the metalling of the main street at Guildford, on the north side of the railway line, as, in its present unfinished state, the principal thoroughfare through that town was dangerous and unsafe for traffic.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the reply he had to make would be similar in its purport to that already given to the Municipality, namely, that a wider portion of the road than had been taken for the railway had been formed and metalled, and the Government had no funds wherewith to further improve it at present.

EASTERN RAILWAY, SECOND SECTION: LOAN EXPENDITURE.

MR. STEERE, in accordance with notice, asked the Colonial Secretary to lay upon the table a return of the total amount expended up to the 30th of June, 1883, out of the loan raised for the construction of the Second Section of the Eastern Railway, showing each item of such expenditure; also the amount remaining due to the contractors on the completion of the Second Section; and, so far as can be estimated, all sums that are due or may be required for the equipment of the said line.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the return asked for would be furnished as soon as possible.

ELECTRIC TELEGRAPH BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved the second read-

ing of a Bill to regulate and protect Electric Telegraphs. It was about fourteen years ago that the electric telegraph was first established in this colony, and, considering the size and wealth of the colony, he thought the House would agree that it had been very creditable to the enterprise of the Government and people in that matter, finding that last year nearly 1600 miles of telegraph, divided into five sections, had been constructed, and that at the present time there was under construction, or about to be constructed, a further distance of 700 miles to the North. In a few words, he would state the reason why this Bill had been considered necessary. In 1865, the Legislature of this colony adopted certain criminal Acts of the Imperial Legislature, and there would be found among those Acts certain sections dealing with offences against electric telegraphs. In 1871, an Act of this colony was passed, protecting railway and electric telegraphs, and, in 1878, another Act was passed, consolidating and amending the various Acts then in force relating to railways, and empowering the Commissioner of Railways to authorise any person or persons employed by him to enter upon any lands for the purpose of surveying them for railway purposes, also making provision for compensation. This Act repealed the Act of 1871, and, curiously enough, nothing was enacted in lieu of it as regards telegraphs; and the intention of the present Bill was to supply that omission, and to provide enactments which shall give certain powers that had never yet been given by any Act of this colony, to the authorities, to enter upon private or any other lands to survey the same, take levels thereof, to dig away the soil, plant posts, erect wires, and to do other things required to be done, for the purpose of establishing and maintaining electric telegraph communication. The Bill also provided certain regulations as to the order in which messages shall be transmitted, giving precedence to those which related to the arrest of criminals or the administration of justice, also Government despatches. There was also a clause which he thought the Council would agree was a very important clause, imposing a penalty upon any officer of the telegraph department who violated the secrecy which ought to be

observed as to the contents of messages. There was another clause providing penalties for injuring or destroying telegraphs, and giving power to persons other than police constables to arrest offenders caught *in flagrante delicto*, without a warrant. This was considered desirable because, as a rule, these offences were likely to be committed outside the towns and the centres of population. It was also enacted that, in addition to any fine or penalty imposed, the offender shall make good the damage he had caused. Provision was further made for compensation, in the event of any private loss or damage being caused by the authorities—should any such case arise, which was not at all likely—in the erection of telegraph lines. This was an outline of the Bill, and he hoped it would commend itself to the Council as being one which, without being very elaborate, was yet sufficient for our purpose, in the management and protection of our electric telegraphs.

MR. CROWTHER, while in accord with much of what had fallen from the Attorney General, thought the Bill would have to be modified in committee, especially the provisions of the 4th clause, which, he thought, left undue power in the hands of persons other than the Superintendent of Telegraphs. With this exception the Bill, he thought, was a good Bill enough.

Motion for second reading agreed to.
Bill read a second time.

CONSIDERATION OF MESSAGE (No. 19)— GRAND JURIES ABOLITION BILL.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the House do now resolve itself into a committee of the whole, to consider the amendment proposed by His Excellency the Governor, in his Message relating to the Grand Juries Abolition Bill. (*Vide p. 224 ante.*)
Agreed to.

IN COMMITTEE.

Clause 10 (reverted to)—“The Attorney General and the Crown Solicitor, or either of them, shall act as public prosecutors, and conduct all criminal trials held in the Supreme Court.”

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved to insert between the words “them” and “shall,” the

words "or some other person duly appointed for that purpose"—as suggested by His Excellency in his Message. The necessity for making this provision had been brought to their attention since the Bill had passed through the House, owing to something which they had all been pleased to hear—the appointment of a second Judge. They found it might be necessary to make other arrangements in future with regard to the Supreme Court, and it was desirable there should be power in the hands of the Governor to appoint some person in that behalf to conduct criminal trials in other places.

Motion agreed to.

Mr. BROWN said he should like to know whether any power was vested in the Government at present to appoint public prosecutors for the Courts of Quarter Sessions in country districts. This clause appeared to him to refer to public prosecutions in the Supreme Court. He thought there existed a very widespread feeling throughout the country districts and among the magistrates, that it would be very desirable to have public prosecutors at these Courts of Quarter Sessions, and that it was very undesirable that the Chairman of these Courts should be, as he sometimes is, the committing magistrate, public prosecutor, and judge. It struck him that if no such power was vested in the Government, it would be as well to add a few words to this clause, so as to make it apply to the Courts of Quarter Sessions.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) thought it better not to do it here. The whole matter must be considered soon, when the judicial arrangements of the colony were reorganised, and he would bear the hon. member's suggestion in mind.

The House then resumed.

THE COLONIAL SECRETARY (Hon. M. Fraser) moved that the following reply to His Excellency's Message be adopted: "This Council, having considered His Excellency's Message (No. 19), has agreed to the amendment therein proposed."

Agreed to.

DOG BILL.

THE COLONIAL SECRETARY (Hon. M. Fraser) with leave, without notice,

moved the first reading of a Bill to consolidate and amend the law relating to dogs.

Motion agreed to.

Bill read a first time.

MARRIED WOMEN'S PROPERTY BILL.

On the order of the day for going into committee on this Bill,

Mr. VENN said he felt a trifle ashamed to think that he had allowed any opportunity to pass without opposing the passage of the Bill through the House. He said he felt almost ashamed because on the occasion when a similar Bill was introduced two years ago he offered that Bill his most strenuous opposition, and it had been his intention last night to have opposed the motion for the second reading of the present Bill, and he wished to redeem that omission by taking the action he was about to take now, namely, to move that progress be reported. He had listened very attentively last night to the explanations made by the Attorney General in moving the second reading of the Bill, but the hon. gentleman failed to convince him that this was an opportune time for introducing such a Bill. The hon. gentleman told them that the Bill would only apply to bad husbands, and sought to charm the House by leading it to believe that its provisions would not affect that class of society to which the hon. members of that House belonged. But it was idle to talk like that. When the Bill became law it would apply to all classes of society, high and low, rich and poor, and he thought it was a Bill which was eminently calculated to make bad husbands and bad wives, by creating a division of interests within the home circle, and, with that division of interests, a division of affections, which was not at all desirable. The mere fact of such a Bill having been passed in England years ago was no argument that the Bill was suitable to the requirements of this colony. What was there in common between the conditions of society in England and the conditions of society in Western Australia? England boasted of a great antiquity and of a large and numerous population, whereas here we had a brief history of half a century only, and an entire population barely

equalling the population of a small town in England. Why then should we assimilate our laws with the laws of a country like England? True the Bill did not go quite so far as the amended English Bill did; it did not entirely sever the marriage tie, but it was a step in that direction, and no doubt it would, if passed, eventually lead to the untying of the marriage knot here. Did the hon. members of that House look with equanimity upon such a prospect as that? It was all very well to say the Bill would not affect the better classes of society, and that it was only intended to apply to the humbler classes; he looked upon it as a reflection upon all classes of society, to a certain extent, and he regretted to think it should go abroad that there existed any necessity here for such a measure. No doubt it was a desirable thing that the law should come to the rescue of injured wives, and it was a desirable thing it should come to the rescue of injured husbands; but the Bill now before the House was of too sweeping a character altogether, and jarred too much on the harmony which should exist in married life. For these reasons, he raised his voice against its being advanced another stage, and, though he should stand alone, he would divide the House on the motion.

The question that progress be reported was then put, and, upon a division, there appeared—

| | | | |
|------------------|-----|-----|----|
| Ayes | ... | ... | 8 |
| Noes | ... | ... | 11 |
| Majority against | | | 3 |

AYES.

Mr. Carey
Mr. Crowther
Mr. Grant
Mr. Higham
Mr. Marnion
Mr. McRae
Mr. Wittenoom
Mr. Venn (Teller.)

NOES.

Hon. M. Fraser
Hon. J. H. Thomas
Hon. J. Forrest
Mr. Brown
Mr. Burges
Mr. Glyde
Mr. Hamersley
Mr. Randall
Mr. Shenton
Mr. Steere
Hon. A. P. Hensman
(Teller.)

The motion being negatived, the House went into committee on the Bill.

Clause 1.—“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 receipt alone shall be a good discharge for such wages, earnings, money, and property.”

MR. WITTENOOM moved that the clause be struck out. When he first heard that some law was going to be brought in to protect poor women and their earnings, he thought such a Bill might prove a very beneficial measure, but he certainly never thought we were going to have such a sweeping Bill as this. Nobody sympathised with unfortunate women having bad unprincipled husbands more than he did, but he objected to this Bill because it would create two independent people in one house, and because it gave the woman an equal position with her husband, who was not protected in any way. The Bill did not provide that the wife was to attend to her household duties, but gave her the right to go and do what she liked with her money. There was no organisation or combination in the world that ever got on with two heads to it, and that was just what this Bill did. Two people could never reign together in one place, and a house divided against itself must fall. If the Bill was not meant to affect the upper classes, why not make it so as to meet the requirements of those to whom it is intended to apply? The position of a wife towards her husband was always intended to be a subordinate one, and he did not see that the woman was degraded in any way by such an arrangement. From the very earliest days of the world, from the time of our first parents being turned out of the garden, the injunction was that the woman should be obedient to her husband, and our marriage law said that a woman shall obey her husband in all things. This Bill subverted the whole social fabric of married life. So much for the principles of the Bill. With regard to the clause under consideration it distinctly provided that a married woman's earnings shall be her own to do

as she liked with. It made very ample provision for the wife, but he saw no provision made for the husband. It was a most unfair Bill, even from that point of view. A woman might be earning a thousand a year, or be possessed of that amount, and she might do what she liked, devoting herself entirely to artistic or other fancy work, instead of to her household duties, while her poor husband who earned his £200 or £300 a year had to devote the whole of it to keep his family. He hoped the clause would be struck out.

MR. MARMION said he would like to give some homely illustrations of the practical bearing of the clause, which, he said, would create discord and the absence of unanimity where, in the past, nothing but concord had reigned. The Bill went upon the supposition that all husbands were bad and brutal, and all women amiable and angelic. He was too gallant to wish to cast any slurs upon the weaker sex as a body, but he ventured to submit that there were to be found amongst them those who were a little lower in the scale than angels. The hon. the Attorney General, in moving the second reading of the Bill, referred to the class of people which the Bill was intended chiefly to apply to, and among the persons mentioned by the hon. gentleman, by way of illustration, was that humble but useful type of female—a washerwoman. Now there were various grades even among that class. There were good washerwomen and bad washerwomen. They were not all of the angelic type. Some of them were rather strongminded. [Mr. BURGESS: Stronghanded, not strongminded.] Under this Bill, a washerwoman, after hoarding up her earnings for a time, instead of applying them to assist her family, might take it into her head to start a little business on her own account, and, the good woman, addressing the poor husband, would probably say: "Well, Tom, I don't see that I am much use here, so I mean to try what I can do for myself, and you, Tom, can find the money to keep the house the best way you can. I propose starting on my own account, so here goes." Remonstrance would be of no avail in a case like this. Poor Tom would have to do the best he could, and, if he made any bother about

it, Mrs. Tom would probably throw this Bill at his head. This was by no means an overdrawn picture of domestic life, if the present Bill became law. And the same illustration might be carried to a higher sphere of life, where the wife, instead of earning money at the washtub, devoted her talents to artistic or literary work, to the neglect of her family and her domestic duties, applying all her earnings to the gratification of her own tastes and her own desires, while the poor husband worked away at some menial occupation to maintain the family. He was not prepared to deny there were not cases in which such a clause as this would operate beneficially, in the case of a woman who had obtained a separation from her husband. But while they lived together the sanctity of home life should be preserved intact, and, if such a provision ever became law—as he supposed it now would—its operation ought to be limited to women who had been granted a judicial separation from their husbands, on the ground of desertion or cruelty, or some other good and valid ground, when such a clause as this might be useful to protect her earnings. It appeared to him if this Bill became law the very humblest class of married people would have to understand book-keeping, and book-keeping by double entry, in order to see exactly how much the husband earned and how much the wife earned. Mr. Gamp would want to have a set of books, and Mrs. Gamp would want another set of books. Mrs. Gamp would enter in her daybook—"Cr. self, 3s., washing done on Monday;" while Mr. Gamp would enter in his book—"Cr. self, 6s., working on the railway." The hon. gentleman who brought in the Bill said the same law in England had worked well, and that he had never heard a complaint against it. But, the possibility was that the injury done by a law of this kind would not become apparant all at once; it would be by a gradual process, extending perhaps over many years, but none the less sure in its results, that women would come to feel their independence and their equality, and that the Bill would work much evil and much misery. He regarded it as the thin end of the wedge for the introduction of that more sweeping measure which they were told the other evening had become law in Eng-

land, and which practically did away with the old-fashioned ideas that husband and wife were one. Judging by the wording of the clause it would also appear that the Bill itself contemplated a state of society more in accordance with Mormonism than with our own ideas of married life. It evidently contemplated a state of life in which a woman would not be limited to one husband, for it provided that she may secure her earnings for her own separate use independent of "any" husband to whom she may be married. That would imply that she might have a variety of husbands. Seriously, he thought it was worthy of the consideration of the Attorney General whether the provisions of this clause should not be limited in its operation to married women who have obtained a judicial separation from their husbands.

MR. SHENTON considered the Bill one of the best Bills that had ever been brought before the House. A similar measure had been in operation in the mother country for many years, and although like all other public measures it was open to the criticism of the press, he had never read a single article hostile to the measure. It was a sign of the times that, as we advanced in civilisation, the rights of women became more and more recognised, and their equality more and more admitted, and he certainly failed to see any ground for saying that the time was not opportune for adopting such a Bill here. The objections to it were simply imaginary, and only existed in the minds of those who raised them. Some men seemed afraid of their wives having the handling of any property at all; but he saw no hardship in a woman exercising proprietary rights as well as a man. Husbands took their wives for better and for worse, and they ought to be prepared to do justice to their wives. Women in the upper classes of life were protected by their marriage settlements, and this Bill simply extended to women in the humbler sphere of life the same protection as those above them had in such settlements.

MR. GLYDE said he should not like to see this measure pass without recording his own sentiments with regard to it. He did not like to give a silent vote on such an important Bill, and he was very

much pleased indeed that the Attorney General had brought it forward. Some hon. members seemed to be strongly against it, but his opinion was that the benefits which would result from the Bill would more than counterbalance any evils that may arise from its operation.

MR. CROWTHER said those hon. members who had spoken on the Bill, being married themselves, might be looked upon as biassed and prejudiced critics, but, for his own part, he was, happily, in a position to look at this matter from a neutral point of view, and while doing so he might say at once it was his intention to support the amendment to strike out the clause, and, if he could, strike out the whole Bill. The hon. member for Toodyay informed them that those deluded people who took unto themselves a wife, took the woman for better or worse; but if this Bill became law, it appeared to him the woman would get all the "better" of the bargain and the husband all the "worse." It would be all "better" and no "worse" for the wife, but very much "worse" for the other party. The hon. member for Fremantle had taken up the parable of the washerwoman; for his own part he preferred the artistic and scientific argument, and, it certainly seemed to him that, from whatever point of view the matter was looked at, "the grey mare was the better horse of the two." There was something about the Bill that he did not like; there was a dash of Labouchere and of Bradlaugh about it that he did not at all care for. He could quite conceive, however, that the intention of the Government in introducing the Bill may have been everything that's right, but the Bill did not strike at the root of the matter. It soared far over the head of the evil it sought to remedy. It did not come down to the level of the grievous wrongs which possibly might in some cases have existence, and which called for redress. In England, perhaps, a Bill of this kind might be useful and beneficial, but in an old and populous country like England, the state of society was different from the state of society in a new country like this, and many surrounding circumstances attached to married life which had no existence here, and which would not be called into existence for many years to come. He failed to see

why an important measure of this kind, affecting the closest relations of life, should be rushed through as this was likely to be. At home the fate of a Ministry, the fate of Ministries, would be dependent upon such a measure as this, which would never be passed in one session. It affected the whole colony, and every class in the colony, and did not concern the hon. members of that House alone. The Government had no right to rush an important Bill like this without giving the country an opportunity of seeing what was proposed to be done for it. It was a defect in our constitutional machinery that such a Bill as this, after passing through committee in that House, could not be published for the information of the public whom it affected, before it became the law of the land. They had no right to pass a measure of this kind completely revolutionising the relations of husband and wife, in one session, and in the jocose way in which hon. members, with one or two exceptions, seemed to regard it—for he noticed that the majority of hon. members appeared to regard it in the light of a good joke, rather than the very serious matter it really was. He hoped the Government would take some steps so that this Bill, after it passed through committee, but before it was finally disposed of in the House, should be laid before the country, so that people might see what they had to expect, before the Bill became law and the inevitable happened. For his own part, he should oppose it stage by stage.

Mr. BURT said it might be in the recollection of the House that he opposed a similar measure which was introduced two years ago, and, as he had seen no reason to change his views in any way, he felt called upon to oppose the present clause, which contained the gist of the whole Bill. The Attorney General, in introducing the Bill, stated that public opinion in the mother country with regard to this subject had considerably advanced of late years. That might be so, in the mother country, but he had yet to learn that public opinion in this colony had even begun to move on the subject. Such a measure might be expedient in England, but it did not follow that it was also expedient in this colony with our sparse population. The number of females, married and otherwise, of all

ages, at the last census taken, throughout the colony, was not more than 6000, including children and infants in arms; so that in passing this Bill we were legislating for this small handful of people, which, all told, married and unmarried, did not exceed 6000 in number. He thought it ill became the Legislature to pass such a measure, and to force it as it were upon the colony, without there being any demand whatever for legislation in this direction. When a similar Bill was brought forward two years ago by the hon. member for Perth, it was, after considerable discussion, withdrawn, avowedly for the purpose of bringing public opinion to bear upon it; but in order to show how little public opinion concerned itself about it, he did not believe the measure was ever discussed either in the press or on the public platform from that day to this. In fact, the people cared so little for it, that they had forgotten all about it. Nobody here considered that the rights of married women were not duly protected. Probably the Attorney General might be an exception. Probably that hon. and learned gentleman might feel inclined to stand up for additional rights for married women; but, for his own part—and he believed public opinion in this colony was with him—he thought the present status of married women was a status with which they ought to be perfectly satisfied. The Attorney General, however, seemed to think otherwise, and he supposed the next measure the hon. and learned gentleman would be introducing in favor of women would be a measure giving them the right to vote at the election of members to sit in that House—a measure which he (Mr. Burt) would likewise feel called upon to reject. Undoubtedly this matter was one of great importance to the country, for it sought to create a revolution in the social relations of married people, and although there might be some necessity for legislation in order to protect the earnings of married women against bad husbands, he certainly did not approve of this measure. It might be desirable, perhaps, to extend the grounds upon which a judicial separation may be decreed by the Supreme Court, so as to admit of the plea that one or other of the parties had contracted habits of intemperance, which at present was no ground for granting a

judicial separation; and if the Bill only went so far as to widen and extend the grounds upon which man and wife might obtain a decree of separation, and a measure of this character was brought in to protect the earnings of the woman in that case, he thought they would be going as far as they were called upon to go. It was said that the Bill would only affect those who did not live on terms of amity with each other. The Bill would not even affect these. The Bill would never change the habits, it would never change the nature, of a man. Would it prevent a grasping husband from taking a woman's earnings, any more than he was in the habit of doing now? What had been the result in England? Why the Bill had proved utterly futile,—so much so that, as the Attorney General told them the other evening, the English Parliament had to extend its provisions last year, and to extend them so as to allow a wife to proceed criminally against her own husband. This confirmed him in the opinion that the Bill in England had not worked satisfactorily, and had not had the effect which its advocates contemplated. The Attorney General told them he had not seen a single adverse criticism upon the Bill originally introduced in England. The absence of adverse criticism was easily accounted for. There was a very good reason why the measure had not been made the subject of hostile criticism, for it had never worked, it had never been brought into practical operation—and in fact the Bill was unworkable. It would be utterly impossible for married people to exist under the operation of such a Bill. So long as they lived on terms of amity and affectionate intercourse, the Bill would not touch them, and, on the other hand, it would not protect women who were afflicted with bad husbands. He judged that, from the fact that in England they had to extend the provisions of the Bill to a most dangerous extent, and the English press had spoken out very strongly indeed against that measure. They had all read of the criminal proceedings recently taken under that Bill by a married woman against her husband, resulting in her husband being imprisoned for six months—a result which seemed to have staggered everybody, judging by the comments of the press.

And, unless we went to that extent with this Bill, we should never effect the object which the Bill had in view. Then, again, this clause was a retrospective clause. Surely those members of the community who happened to be males, and who had contracted marriage, had some vested rights. They entered into the bonds of matrimony with the distinct understanding that, as provided by the law of the land, the woman's property would become her husband's, who was the responsible party. That was the agreement entered into between them when they contracted the matrimonial contract—and the law looked upon marriage as a civil contract and nothing more. But now it was proposed to seriously alter the terms of that contract, and for this reason he felt bound to vote against the Bill. Let it apply, if it was wanted at all, to people who entered into the marriage contract in the future, and who did so with their eyes open as to a woman's rights under this Bill; but let it not be made to apply retrospectively. The husband of the present day would soon become extinct under such conditions as this Bill contemplated; and, as he thought the genus husband had a claim to be allowed to exist for some time longer, he hoped they would not pass this Bill, but allow him to survive. The Bill, to say the least of it, was premature; public opinion in this colony at any rate was not ripe for it. The time might arrive when the Attorney General would be able to convince them that the status of the married woman called for improvement, but at present he thought she ought to be well satisfied with the station she has got. He did not suppose any hon. member could place his finger on half-a-dozen cases in the colony in which a married woman had her own separate earnings, requiring protection, while, as to the case of any worthless husband living entirely on his wife's earnings, he did not suppose there was a case of that kind in the colony; if there was, it was an isolated case, calling for no special legislation to deal with it.

MR. RANDELL did not think it would be difficult to find fifty such cases in the city of Perth alone, in which a Bill of this kind would prove a great boon to married women. The Bill was one which had his most hearty support.

He did not anticipate any of the dangers arising from it which some hon. members apprehended—dangers which in his opinion only existed in their imagination. He could not help thinking these hon. members must have a very bad opinion of their wives, if they thought this Act was going to work such a radical change in their natures as to produce the dreadful results which had been conjured up with a view to work upon the feelings of the House. The whole subject had been so thoroughly threshed out by this time, that it would be only wasting the time of the House to argue any more in its favor, and he should merely add it was his intention to vote for the clause.

MR. CAREY said reference had been made to an attempt made to rush the Bill through the House, and it was stated it had not been before the country. He believed the district which he represented was the only district in which the subject was really brought before the electors, and, though the district was not a populous one, it was entitled to express its opinion on this or any other subject. The electors of that district most emphatically pronounced an opinion adverse to the Bill, and he felt sure, if the hon. member for Greenough's suggestion were carried out—that the Bill should be held over for another session before it became law—public opinion would be found to be entirely against it.

MR. MARMION said he did not at all like the tone of the remarks which had fallen from the hon. member, Mr. Randell. He thought that in all their debates they should abstain from personal references, and when he spoke of those who opposed this Bill as having a very indifferent opinion of their own wives he thought the hon. member went too far.

MR. RANDELL did not think he had overstepped the license of debate.

MR. MARMION said, to say the least of it, it was not polite. They were discussing a measure of public interest, and without reference to anything which might occur in their own homes, and when an hon. member arrogated to himself the right to speak in this lofty-minded style about dangers and evils which he said only existed in the imagination of hon. members, it would be as well he should perhaps give some of them credit

with being gifted with as much knowledge of human nature as himself, and with being quite as well able to form an opinion as to the practical operation of such a Bill. The hon. member might, perhaps, as he stated, be aware of cases in which dissolute husbands had spent the earnings and the property of their wives, but did the hon. member mean to say that this Bill would cure that evil? Did he think it would tend to reform the habits of drunken husbands, who treated their wives in the manner described by the hon. member? If the hon. member did think so, he was afraid the hon. member would find himself mistaken, the hon. member would find himself disappointed. The mere fact of such a Bill as this being on the statute book would not refrain brutal husbands from exacting from their wives their earnings, either by physical force or by very strong language. If they wanted to free a woman from the thralldom of a brutal and dissolute husband, let them do what the hon. member for the Murray and Williams suggested, let them widen and extend the grounds upon which a judicial separation may be granted, and let them apply the provisions of some such Bill as this to protect the earnings of a woman who had thus been emancipated from her thralldom, but not while husband and wife are living together.

MR. BROWN said they had been to a certain extent challenged to show any necessity which existed for the introduction of such a measure as this. It was only that very day he had heard of a case relating to a couple in humble circumstances which very forcibly illustrated the necessity of enacting some such law as this. A man had deserted or separated from his wife some considerable time ago, and since then he had been picking up a precarious livelihood, from hand to mouth, wandering about the country, while the woman industriously set about to earn her own living and to maintain her children. This she succeeded in doing, and, in addition to maintaining her family, managed to save a sum of £30, which, to people in her sphere of life, was a very considerable amount, and which she deposited in the bank. The husband, it appeared, returned the other day, and, going to the bank, demanded this money, and the

bank had no alternative, under the law as it now stands, but to give it to him. Some hon. members seemed to anticipate a good deal of domestic discord if married women were raised to the independent position which this Bill sought to place them in; but he would remind the committee that a similar measure had been in force for many years in England, where there were hundreds and thousands of wives in this independent position, protected by marriage settlements; but they had not yet heard of any serious domestic troubles arising in consequence of such settlements, or of married life being embittered thereby.

MR. BURT said these settlements related to property which the woman possessed or inherited prior to her entering into the marriage contract, and that contract was entered into with a full knowledge on the part of the husband that the property was settled upon the wife, which was a very different thing from what this Bill contemplated.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he desired to say a few words upon the arguments which had been brought forward against the clause. He thought they might congratulate themselves upon the good spirit in which the debate had been conducted, and that they were all anxious to give each other the benefit of their own ideas and experiences in reference to the subject under discussion. It had been said that the Bill had been brought forward in a witty or jocular way, and that it did not seem to have been brought forward in that serious vein in which a subject of this importance ought to be treated, if they were in earnest.

MR. CROWTHER said he never intended to convey the idea that the hon. gentleman himself, who brought forward the Bill, was not in earnest: what he said was that the majority of hon. members seemed to treat the Bill in a jocular sort of way.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he was glad to find that his ears had deceived him. For his own part, he assured the House he had never intended treating the subject in anything but a serious manner. Reference had been made to the position occupied by women in olden times, and it was argued by one hon. member that

we had no right to alter the position assigned to the weaker sex in the earliest period of the history of mankind. But he would remind the hon. member that in those primitive days woman was regarded as a slave, and that the whole tendency of the rise and progress of the human race had been to raise her from that slavish position to one of equality with man. It had also been said that the Bill left the husband unprotected, but he would remind the committee that the husband already enjoyed the whole protection which the law afforded, while the rights of the wife were not recognised at all, and the object of the present Bill was to recognise those rights to a certain extent. It was said by the hon. member for Fremantle that the Bill had been brought forward on the supposition that all husbands were bad and that all wives were good. Not so. On the contrary, the Bill, as he said when introducing it, would not affect the great majority of men and women, living together happily. It had been said the Bill would destroy the sanctity of home life. The provisions of this Act had been in force in England for the last thirteen years, and he had never yet heard of any case in which it had affected the sanctity of home life. He thought the sanctity of home life depended upon other and very different things from Acts of Parliament. The sanctity of domestic life depended rather upon that mutual trust and confidence which prevailed between husband and wife living happily together, and no number of Acts of Parliament would ever destroy the sanctity of home life, based upon such conditions. It had been said that the provisions of the Bill should only apply to married persons who had been judicially separated; but he would remind the committee that, when a judicial separation took place, the Court made provision for the support and protection of the wife so separated from her husband; and, if they were to make provision in this Bill to meet cases of divorce, they would be going much further than the Bill ever contemplated. It was further suggested that the provisions of the Bill might be applicable to English society, but that they were not applicable to colonial society. What difference was there between the relations of husband and wife in Eng-

land and the relations of husband and wife in this colony? He should be very sorry indeed to think that, by crossing the seas and coming to live under Australian skies, any other relation existed between married people who came here than that which existed between them before they left the shores of England. Again, it was said by an hon. and learned member that public opinion here had not yet begun to move in this direction. If public opinion had not yet begun to move, all he could say was he thought it was time public opinion did move. Considering that a similar measure was discussed in that House two years ago,—although perhaps it had not formed a topic of conversation in the homes of people in the remote parts of the colony, who perhaps had not even heard of it, still it had been discussed by the properly appointed representatives of the people in that House, and he thought they could not have a better expression of public opinion than that which was expressed by the representatives of the people in Council assembled. It was said that only six thousand women would be affected by the Bill, that its provisions would only apply to a comparatively small number of people. The same remark applied to all laws passed here, compared with the laws in force in a country like England. It was also said the Bill would work a revolution in their social economy. So far from working a social revolution, he thought the Bill only provided a simple remedy for an evil that existed only among a certain portion of the people. Another argument used was that if we passed this law it would be futile, because dissolute husbands who came home now and spent their wives' money would do the same if this Bill became law. Perhaps they would, but it would not be the fault of the law if women did not seek its protection. It had been said that the Bill would entail the necessity of every married man and of every married woman being their own book-keepers, and that separate accounts would have to be kept of the earnings of the husband and of the earnings of the wife, living under the same roof. If hon. members would look again at the clause they would see that it referred to the earnings of a married woman in any employment, or occupation

or trade, which she may carry on "separately from her husband." Hon. members had apparently omitted to notice these words—"separately" from her husband, and those words had a meaning.

MR. MARMION: Will the hon. and learned gentleman explain their meaning?

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said he could not venture to explain all the numerous occasions that might arise. These were matters for the consideration of the courts. The clause followed the wording of the English Act, and he thought it was very desirable we should always follow, as far we could, the wording of English Acts adopted here, as we thus got the benefit of the decisions of English courts of justice, as to the meaning of the Act. It had been suggested that if the Bill became law, drunken and brutal husbands,—by means of physical force, one hon. member said, or by resorting to equally forcible language, would still continue to spend the earnings of the wife, as they do in some cases now. Well, as he had already said, if a woman chose to submit to such treatment, when the law offered her its protection, all he could say was they must blame the woman and not the law. Under the Bill, if the husband possessed himself of any of his wife's earnings against her will, he could be dealt with by our courts of law, and he for one would not pity that man if he got soundly punished for doing so. Therefore he submitted this Act would not be futile. It created a state of things under which, if a woman has property of her own, the law will protect it. It had also been urged against this clause that it was retrospective in its operation, and consequently unfair. Were not all laws more or less retrospective? This year he might lawfully do a thing which next year he could not do because an Act of Parliament had in the meantime been passed telling him he must not do it. We should never have any fresh legislation, of a prohibitive character, if it was not to affect people who had rights and privileges anterior to the passing of the law as well as people who might have rights and privileges in the future. We would not be justified in passing any laws that were not in existence when we first came into the world, if that argument held good. This clause, he ven-

tured to think, was one of the most useful clauses in the whole Act, and he hoped and trusted the committee would affirm it, and enable them to pass on to those other provisions of the Act which followed upon it, and which carried out its intention.

Mr. WITTENOOM said the Attorney General told them that public opinion was represented in that House by those members who were elected by the people to represent them in Council. If the hon. gentleman would analyse the division list, which had taken place on the motion to go into committee on the Bill, he would see that so far as the elected representatives of the people in that House were concerned, there were quite as many if not more who voted against it as for it.

The question that the clause be struck out was then put, and a division being again called for, there appeared—

| | | | |
|------|-----|-----|----|
| Ayes | ... | ... | 9 |
| Noes | ... | ... | 13 |

Majority against ... 4

| AYES. | NOES. |
|--------------------|------------------------|
| Mr. Burt | The Hon. M. Fraser |
| Mr. Carey | The Hon. J. H. Thomas |
| Mr. Crowther | The Hon. J. Forrest |
| Mr. Grant | Mr. Brown |
| Mr. Higham | Mr. Burges |
| Mr. Marmion | Mr. Glyde |
| Mr. McRae | Mr. Hamerley |
| Mr. Wittenoom | Mr. S. S. Parker |
| Mr. Venn (Teller). | Mr. S. H. Parker |
| | Mr. Randell |
| | Mr. Shenton |
| | Mr. Steere |
| | The Hon. A. P. Hensman |
| | (Teller). |

The motion was therefore negatived, and the clause ordered to stand part of the Bill.

Clause 2.—“Notwithstanding any provision to the contrary in any Acts relating to Savings Banks or Post Office Savings Banks, any deposit hereafter made in the name of a married woman, or in the name of a woman who may marry after such deposit, shall be deemed to be the separate property of such woman, and the same shall be accounted for and paid to her as if she were an unmarried woman; provided that if any such deposit is made by a married woman by means of moneys of her husband without his consent, the Court may, upon an application under section 8 of this Act, order such deposit, or any part thereof, to be paid to the husband:”

Mr. MARMION: Who is to prove whether her husband has consented?

Mr. CROWTHER: Who is to pay the costs of the application to the Court, if the woman has no money to do so?

THE ATTORNEY GENERAL (Hon. A. P. Hensman): If a woman deposits the money in her own name it is to be deemed her own property; but, so that there should be no hardship done to the husband, power is given to him to apply to the Court for relief, and if he can show that the money deposited by the woman is not her own separate money, the Court may order it to be paid to him.

Mr. BURT said, although hon. members seemed determined to go on with the Bill, it was obvious they knew but very little about it.

The clause was then put and passed.

Clause 3.—“Any married woman or any woman about to be married may apply in writing to the directors or managers of any incorporated or joint stock company that any fully paid up shares or any debenture or debenture stock, or any stock of such company to the holder of which no liability is attached, and to which the woman so applying is entitled, may be registered in the books of the said company in the name, or intended name of the woman as a married woman, entitled to her separate use, and it shall be the duty of such directors or managers to register such shares or stock accordingly, and the same upon being so registered shall be deemed to be the separate property of such woman, and shall be transferred and the dividends and the profits paid as if she were an unmarried woman. Provided that if any such investment as last mentioned is made by a married woman by means of moneys of her husband without his consent, the Court may, upon an application under section 8 of this Act, order such investment and the dividends and the profits thereon or any part thereof to be transferred and paid to the husband:”

Mr. S. H. PARKER moved that this clause be struck out. Hon. members would observe that it related to joint stock companies, and to women having shares in such companies, of which there were very few in number in this colony, and the clause, if adopted, would only remain

a dead letter. He should be sorry to see any part of the Bill remain a dead letter. In fact, he was so very much pleased with the Government for taking up his Bill that he should be sorry to see any alteration effected in it. When he brought in his Bill two years ago, he considered the matter very carefully, and with due regard to the almost primitive state of society which exists here as compared with an old country like England, and the opinion he arrived at was that there was no necessity for inserting this clause in our local Act. It was very seldom indeed that women here had shares in joint stock companies, and he thought we ought to make the Bill as simple a Bill as possible. He noticed that the Attorney General's Bill was an exact copy of his own Bill, with the exception of this clause and a subsequent clause empowering a married woman to insure the life of her husband, which he would also move to strike out.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The hon. and learned member is right in saying that the words of this Bill are the words of his Bill, and they are the words of his Bill for the obvious reason that they are also the words of the English Act, from which the hon. member obtained his Bill, and from which we also have taken the present Bill.

MR. PARKER: You took my Bill and copied it. You asked me where you could get a copy of it, and I told you at the Government Printer's.

THE ATTORNEY GENERAL (Hon. A. P. Hensman): The hon. member is quite right. I was informed that the hon. member had brought in a Bill two years ago dealing with the same subject, and, very naturally, I was anxious to ascertain what the hon. member's views on the subject were, and what his Bill was like. But when he says that I copied this Bill from his Bill, he is in error, for I simply directed my clerk to copy the English Acts, and the difference between the hon. member's Bill and this Bill is that I have copied nearly the whole of the English Acts, *in toto*, whereas he had left out several of their clauses. With regard to the particular clause now before the committee, I quite agree as to the desirability of making the Act as simple as we can; but I fail

to see why this clause should be excluded any more than the next clause, which was in the hon. member's own Bill, and which relates to a married woman's property invested in a provident society, a building society, or any friendly society. I fail to see anything more complicated in this clause than in the following clause: one protects a married woman's property invested in a joint stock company, and the other protects a married woman's property invested in a provident or friendly society. I cannot see, if a married woman has separate property, or moneys of her own, why she should not be allowed to invest it in bank shares or in the shares of a joint stock company, as well as in a building or in any provident society; and that is the only difference between the two clauses. The hon. member, in his Bill, thought proper to leave one of them out, but I do not see that I was bound to leave it out simply because the hon. member left it out. I fail to see why a woman should not have a choice of investment.

THE COMMISSIONER OF CROWN LANDS (Hon. J. Forrest) looked upon the clause as a very good one. He thought a woman ought to be allowed to invest in any shares she liked.

MR. S. H. PARKER pointed out that the clause did not allow a married woman to invest in any joint stock company to which any liability was attached to the shareholders. The reason he left out the clause was because it applied to women who probably would be already protected by marriage settlements, and the main object of the Bill was to protect married women who had no such settlements, and who belonged to the poorer classes. Many of these women invested their little money in building societies, whereas they would never dream of taking shares in a joint stock company, and he saw no good in encumbering the Act with any superfluous clauses.

MR. BURT looked upon this clause as simply providing a ready means for a married woman to filch her husband's money and invest it in shares, so as to secure it for her own separate use, instead of appropriating it for domestic purposes. He noticed the clause applied to women who are already married, and also to women who are about to be married. If it were limited in its operation to the

latter class it might not be so objectionable, for in that case it would be as good as a marriage settlement for the woman. She would then be investing her own property, but it was a very different thing to allow a married woman to hoard up money which her husband gave her for household purposes, and invest it in shares for her own separate use. He would suggest, as an amendment, that the words "any married woman" be struck out.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) pointed out that the committee by passing the previous clause of the Bill had accepted the fact that the Bill shall apply to women who were married before the passing of the Bill, and, having done that, it would be inconsistent on the part of the committee to say now that this shall only apply to women who are about to be married. The only question was—why should not a woman be allowed to invest her money in a joint stock company just as much as in an industrial or provident society? He failed to see any distinction in principle. If they once accepted the principle—and the House had already done so—that a woman was entitled to have separate earnings, and to have the full control of any money that may be left to her, why should she not be allowed to invest her funds in bank shares as well as in any other investment? Why force her to invest her earnings in a friendly or a building society? The argument about filching money applied to the whole of the Bill, and he was sorry it had been suggested. The House having affirmed the principle of the Bill, and the committee having also accepted it by adopting the previous clause, he hoped hon. members would be prepared to carry out that principle to its logical conclusion.

The amendment to strike out the clause having been negatived, on the voices, the clause was then put and agreed to as printed.

Clause 4—As to a married woman's property in a society:

Agreed to *sub silentio*.

Clause 5—Deposit of moneys in fraud of creditors invalid:

MR. MARMION was afraid this clause would lead to fraud, by collusion between husband and wife, and would open the

door to evil practices which did not now exist.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said there was no transaction in life in which people, if they were so evil-minded, might not deal fraudulently. This clause was intended to favor creditors, and, if any attempt at fraud were made, the probability was it would be discovered.

The clause was then agreed to.

Clauses 6 and 7—Personal and freehold property coming to a woman to be her own:

Agreed to *sub silentio*.

Clause 8—How questions as to ownership of property to be settled:

MR. WITTENOOM said this seemed a very absurd clause, and a very unworkable one. If a dispute as to ownership arose between husband and wife at Geraldton or Albany, what were they going to do? According to this clause all disputes had to be settled by the Supreme Court. The parties would either have to come down to Perth or employ a lawyer.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) said the probability was that the second Judge would proceed on circuit to the seats of Quarter Sessions, and he would be invested with all the power of the Supreme Court.

The clause was then agreed to.

Clause 9—"A married woman may effect a policy of insurance upon her own life, or the life of her husband for her separate use, and the same and all benefits thereof, if expressed in the face of it to be so effected, shall enure accordingly, and the contract in such policy shall be as valid as if made with an unmarried woman.

"A policy of insurance effected by any married man on his own life, and expressed upon the face of it to be for the benefit of his wife, or of his wife and children, or any of them, shall enure and be deemed a trust for the benefit of his wife for her separate use, and of his children, or any of them, according to the interest so expressed, and shall not, so long as any object of the trust remains, be subject to the control of the husband or to his creditors, or form part of his estate. "When the sum secured by the policy becomes payable, or at any time

"previously, a trustee thereof may be appointed by the Supreme Court, and the receipt of such trustee shall be a good discharge to the office.

"If it shall be proved that the policy was effected and premiums paid by the husband with intent to defraud his creditors, they shall be entitled to receive out of the sum secured an amount equal to the premiums so paid."

MR. STEERE moved that this clause be struck out. He thought it was a very objectionable clause, empowering as it did a married woman to insure the life of her husband for her own benefit. It was putting temptation in the way of women which ought not to be put in their way.

MR. MARMION thought the clause would be better in a Bill dealing with insurance than in a Bill of this kind. He thought it would be a very desirable thing if provision were made for a married man to insure his own life, and that the policy of insurance so effected should express upon the face of it that it was for the sole benefit of his wife, or wife and children, beyond the reach of creditors—unless fraud were proved, in which case provision might be made in favor of the husband's creditors. Under the present law, a man finding himself pecuniarily embarrassed was often tempted to pledge his insurance policy by way of security for monetary accommodation, with the result sometimes that the benefit of the policy was lost to his family.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) thought the objections raised by the hon. member for the Swan to the Bill might be met by striking out the words "or the life of her husband," in the third line.

MR. STEERE said that would remove the objection he had to the clause, and, on the understanding that these words were omitted, he would withdraw his motion to strike out the clause altogether.

Motion, with leave, withdrawn.

THE ATTORNEY GENERAL (Hon. A. P. Hensman) moved that the words "or the life of her husband," in the third line, be struck out.

Agreed to, and the clause as amended put and passed.

Clauses 10 to 16:

Agreed to, without discussion.

Preamble and title agreed to.

Bill reported.

The House adjourned at four o'clock, p.m.

LEGISLATIVE COUNCIL,

Friday, 17th August, 1883.

Correspondence relative to Ship Masters' Certificates—Crown Lands reserved on Eastern Railway—Message (No. 21): Replying to Addresses—Troughs at Public Wells between DeGrey and Fitzroy Rivers—Jetty Accommodation at Fremantle in connection with Eastern Railway—Electric Telegraph Bill: in committee—Adjournment.

THE SPEAKER took the Chair at seven o'clock, p.m.

PRAYERS.

CORRESPONDENCE RELATIVE TO SHIP MASTERS' CERTIFICATES.

MR. MARMION, in accordance with notice, asked the Colonial Secretary to place upon the table of the House all correspondence that had passed between the Government of this Colony and the Marine Board of South Australia, in reference to the certificates of competency issued to masters of vessels by the Government of this Colony. His object in asking for this correspondence was because it was referred to in a despatch which had been printed in the *Government Gazette*, in which reference was made to some previous correspondence between the Marine Board and the Government of this colony, which he should like to have an opportunity of perusing, with the view possibly of taking some future action in the matter.

THE COLONIAL SECRETARY (Hon. M. Fraser) said the correspondence asked for would be laid on the table.