

MARRIED WOMEN.

It will be observed that the right of the justices to seize and destroy publications as mentioned in the case, depended solely upon whether or not they were of such a character and description that the publication of them would be a misdemeanor and proper to be prosecuted as such. It was necessary therefore for the judges to decide whether or not this publication, admitted to be obscene and calculated to prejudice good morals, would support an indictment, the publisher not disposing of the pamphlets for the sake of gain, nor in fact to prejudice good morals, but to promote a lawful object. The language of the Chief Justice, in holding that it would support an indictment was not more emphatic than it was sound. The maxim of "You shall not do evil that good may come" is (as was said by the Bench) applicable in law as well as in morals. Indeed if the converse of such a doctrine were permitted, the man who gives another a dose of poison to terminate bodily suffering and put a speedy end to a painful, fatal malady, would stand excused of crime, and it would be an available plea in the mouth of a man who blew out the brains of another who was struggling in the jaws of death, that he did it, as he commonly done to the lower animals, to release him from a state of suffering which could not but speedily terminate in death. The case we have made the principal subject of these remarks cannot but be looked upon henceforth as a leading authority.—*Law Times*.

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The Bill "to amend the law with respect to the property of married women," prepared and brought in by Mr. Shaw Lefevre, Mr. Russell Gurney, and Mr. J. S. Mill, contains only fourteen clauses, and bears evidence of having been carefully prepared. We think that upon the whole it is an advance, though unquestionably by a somewhat long stride, in the direction in which legislation and the practice of the Court of Chancery have been tending for years past, although the framer of the preamble seems disposed to deny any merits whatever to the existing law. The preamble states that the "law of property and contract, with respect to married women, is unjust in principle, and presses with peculiar severity upon the poorer classes of the community." The latter part of the preamble is unfortunately true, as an application to the Court of Equity by a married woman of the poorer classes is a serious step, yet the only one by which she can obtain assistance from those equitable doctrines which have displeased the common law as regards husband and wife. On the former part of it we do not in this place express any opinion. It is then enacted (section 1), that a married woman shall be capable of holding, alienating and devising property and of contracting as a *feme sole*, and (section 2) that property of women married after the Act, which is to

come into operation on the 1st January, 1869, whether belonging to them before marriage or acquired by them after marriage, shall be held by them free from the debts of their husbands, and from their control or disposition, as if unmarried.

It is clear that the best advice that it is in our power to give to a woman about to be married must be, "Wait until the 1st of January, 1869." That the wife's property should be exempted from the husband's debts is highly desirable, but how are you to exempt it from his control? We fear that it is beyond the power, even of Parliament, to do that. Suppose the case of a husband and wife under the new law, being of that class where of all others a settlement of the wife's property is most desirable, the class of traders. Under the law, as it is to be, the wife retains her property; before long, without doubt, she will be asked to put it into the business, possibly to become a partner in it, to which we can see no legal objection under the new state of things. Would not ninety-nine women out of a hundred, in such a case, put their fortunes into their husband's hands to do what he liked with? and is not that the very evil which settlements were meant to avert? It is however, still open to a woman on marriage to make a settlement.

Section 3 extends to women already married the right to hold, as if unmarried, property acquired by them after the Act, subject to any settlement which they may have made of it, and to any vested rights of their husbands in it.

Section 4: the earnings of a married woman to be her personal estate; is a valuable provision, extending to all married women the protection which, under the 20 & 21 Vic., c. 85, deserted wives only were enabled to obtain. This provision will undoubtedly be a great boon to the lower classes of society.

Section 5: a husband shall not be liable for his wife's debts incurred before marriage, or for any wrong committed by her.

Section 6 repeals in part the existing law of distribution, giving the husband the same distributive share in the personality of his intestate wife as she would take, on his dying intestate, in his personality.

Section 7 reserves the tenancy by the curtesy.

Section 8 provides for a state of things that will, no doubt, often occur. Questions between husband and wife as to chattels are to be decided in a summary way, either by the Court of Chancery or by a County Court, as the case may be, the right being reserved to the petitioner of applying to the county courts, whatever the amount at stake may be. It is probably by an oversight that no provision has been made as to the amount that may be adjudicated upon in the Superior Court and County Court respectively. As the bill stands, the *forum* will be entirely in the option of the petitioner, irrespectively of the amount at stake.