

the need for this bill. He asked: How is it that we have again and again in this house granted divorce to women whose husbands are patently admitted to be in the United States and therefore according to the law as it stands the woman cannot have the domicile of her husband? The answer is that we deliberately encourage the woman to commit perjury. She is asked if she knows where her husband is. She may say that the last time she saw him he was in Toronto. She is asked if she knows where he is now. She answers, no. "Therefore, to the best of your knowledge, he is still domiciled in Canada?" she is next asked. She is primed to answer "yes", and then the court, in order to do justice, takes no cognizance of the fact that the man is patently domiciled in the United States, and by that subterfuge they endeavour to give a measure of justice to the woman. That just illustrates the need for this bill.

Mr. J. S. WOODSWORTH (Winnipeg North Centre): May I give a case that was brought to my attention last summer? A man from the isle of Guernsey came to western Canada, lived there some time and then married a Canadian girl. Immediately after the ceremony she became suspicious of him and left him. He proved to be a scoundrel. He was arrested and sent back overseas. He came back to this country in violation of the Immigration Act, and is now in a penitentiary in Canada. The Canadian authorities refused to allow him Canadian domicile because they wish to deport him as soon as he gets out of the penitentiary. As I understand it, the only place where that girl can get a divorce is in the isle of Guernsey. She is a Canadian girl, was married in Winnipeg, and I believe she should have the right to apply for a divorce in Winnipeg, or at all events in Canada.

Mr. J. L. BROWN (Lisgar): In regard to the granting of a divorce where the man is in the United States, there must be some misapprehension on the part of certain hon. gentlemen, because I recall distinctly a case that came before the divorce committee in which the husband was in Missouri, and witnesses were brought all the way to this house from Missouri to prove that he was there, and a divorce was granted.

Motion agreed to, bill read the second time and the house went into committee thereon, Mr. Johnston in the chair.

Section 1 agreed to.

On section 2—Married woman deserted and living apart for two years may commence proceedings for divorce.

Mr. CANNON: May I ask the hon. gentleman who has introduced this bill how it differs from the bill of last year?

Mr. THORSON: Perhaps I might briefly answer that by reading the bill that was passed last year. The bill read:

A married woman who either before or after the passing of this act has been deserted by and has lived separate and apart from her husband for a period of two years and upwards and is still living separate and apart from her husband may acquire in any one of the provinces of Canada in which there is a court having jurisdiction to grant a divorce a vinculo matrimonii a domicile of her own choice as though she were a feme sole for the purpose of commencing in the province in which she has acquired such domicile an action for divorce a vinculo matrimonii praying that her marriage may be dissolved on any grounds that may entitle her to such divorce in the court of such province having jurisdiction to grant such divorce and such court shall have jurisdiction to grant such divorce whatever the domicile of the husband may be, provided that for the purpose aforesaid such married woman shall be deemed to retain the domicile of her husband at the time she was so deserted until she has acquired a domicile of her own choice as aforesaid.

The difference between this bill and the bill introduced last session is that last year's bill gave to the deserted wife the right to acquire a separate domicile from that of her husband, and it would have permitted her to go from province to province in order to acquire a separate domicile for the purpose of commencing an action for divorce. In this bill no such right is given. This bill gives legislative effect to rules laid down in two English decisions, namely, *Armytage v. Armytage* L. R. 1898 P., at page 185 and *Ogden v. Ogden* L. R. 1908 P., at page 78. In short, under this bill the courts will presume a continuation of domicile of the parties to the action in the province in which they were domiciled just immediately prior to the desertion by the husband.

Mr. CANNON: Has not my hon. friend any doubts as to whether this parliament has a right to interfere in a matter of domicile? Does not that come under the civil law which is within the competence of the provinces?

Mr. THORSON: This bill merely confers jurisdiction upon the courts to grant divorce and does not in any respect change the domicile of the wife. Had it been sought to make any such change, there might be some question as to its being *intra vires* of this parliament.