

quire a domicile differing from the matrimonial domicile. But it stops at that. If it had become law it would have changed the law in a very material respect, whatever the consequences of that change might be; but it did not go by any means as far as the present measure does.

This Bill being so ill-drawn, and having received such inadequate consideration, I venture to offer the opinion that it needs far more consideration than it has yet received, and in these circumstances I beg to move, seconded by my honourable friend from La Salle (Hon. Mr. Bureau):

That the said Bill be not now read a second time, but be read a second time this day six months.

Hon. W. B. WILLOUGHBY: Honourable gentlemen, it is no part of my duty to speak on behalf of this Bill, and I have made no special preparation in order to do so, but as the Chairman of the Senate Committee on Divorce has gone home, I may, perhaps, say a few words. The Bill may have some latent defects, it may even have some which are patent, but on the whole the principle of it is one that I support. I am sure that every member of this House is delighted to hear the honourable gentleman who has just spoken (Hon. Sir Allen Aylesworth). It would be a pleasure, and an advantage, to hear him more frequently than he has been able to address us.

Some Hon. SENATORS: Hear, hear.

Hon. Mr. WILLOUGHBY: We are only sorry that the honourable gentleman was not able to continue his remarks yesterday. We all recognize—and I particularly, as one who was a youth when he was a legal practitioner in Toronto—the very eminent position that he held, even before he became Minister of Justice. I have always regarded the honourable gentleman with a great deal of admiration as a member of my own profession. However, as you know, honourable gentlemen, not only lawyers but even judges disagree, and I for one do not fear the terrible consequences predicted by my honourable friend.

I accede to the honourable gentleman's proposition that this House is not committed to the position taken on the Bill of 1920. The action taken at that time was simply an expression of the opinion of this honourable House, and even though the Bill never became law, nevertheless, according to the records, it passed this House unanimously, and I think I may invoke that action as tending in a certain direction.

Hon. Sir ALLEN AYLESWORTH.

I am absolutely in accord with the statement of law made yesterday by the honourable gentleman as to what constitutes domicile—the domicile of origin, where the person is born; the domicile of choice, where he elects to live afterward; and the domicile of marriage in the case of a woman who has changed her status and has become a wife. There is no dissent from these general principles at all. While a restatement of them may refresh the memory of laymen in this House, to those who are familiar with the law of matrimony and divorce they are nothing new. In saying that, I do not wish to comment adversely upon what the honourable gentleman has said, for it is quite within his right to remind us of these principles.

I do not at all share the solicitude of the honourable gentleman for the class of people aimed at by this Bill, for they are absolutely undeserving, and they are the only ones punished, if anyone is, in the event of a dissolution of marriage as a result of divorce proceedings. The Bill says:

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.

It deals only with the cases of women whose husbands have deserted them for a period of two years or upwards.

Now, what is desertion? It is not the mere leaving of a wife. I say that a husband formerly living in the Province of Ontario who has deserted his wife and gone to live outside of that province is not deserving of our sympathy. It will be for the court that hears the application to decide whether or not he has deserted his wife, or whether the acts of which he is guilty constitute desertion. I do not admit that the illustration given by the honourable gentleman of a husband who goes to live in another part of Ontario is apropos.

Hon. Mr. HUGHES: Has desertion to be proved before the application for divorce?

Hon. Mr. WILLOUGHBY: No; it would have to be proved to the court.

Hon. Mr. HUGHES: But the woman has to prove desertion before making her application?

Hon. Mr. WILLOUGHBY: She would have to prove it in the course of her application. She makes an allegation, as she would in any other action in court; she asserts that she has been deserted for two years by her husband; then when her application is heard the judge has to decide, among other things,