

**WOMEN'S LEGAL STATUS BILL**  
**(SECOND READING)**  
**5 September 1923**

**Edith Cowan successfully moved for the passage of a Private Member's Bill to remove women's disqualifications for entry into the legal and other professions.**

*Mrs. COWAN* (West Perth): In moving the second reading said: I am bringing forward this Bill at the instance of the women of the community through their various organisations. We are desirous of having women put on a reasonably fair footing in point of holding offices and positions now closed to them. The Bill amends the law in respect of women's disqualifications. Probably I shall be told that the Interpretation Act would meet all our difficulties. But so far from its doing that, every time women desire admittance to any further professions or posts, some special Bill has to be brought in to amend the Interpretation Act. If the Bill before us is passed, we shall not have to be continually coming to Parliament in order that women may be admitted to various functions and offices from which they are now debarred. Similar legislation has been passed in Great Britain and in New South Wales. In other parts of the world also women are admitted to many professions and avenues of employment not open to them in this State. For instance, everybody thought our Interpretation Act covered equal citizenship, really a matter enabling women to sit in Parliament. It was thought the Interpretation Act would have sufficed, because it is there prescribed that the masculine gender includes the feminine gender. Yet to enable women to sit in this Parliament you had to amend the Act, making it clear that the word "person" included female as well as male. For instance, we feel it is desirable that women should be admitted as barristers. There is nothing in the Barristers' Act to prevent it, but when application was made to admit a woman the judges held that the Act did not originally intend that women should be admitted. We were told by Judge Parker that if the Legislature desired that a woman should be capable of being admitted as a practitioner of the court, or indeed if the Legislature desired that a woman should be capable of being admitted as a practitioner of the court, or indeed if the Legislature intended to make women eligible for admission to the court, they should have said so in express language as, he believed, had been done in New Zealand.

*Mr Davies*: In what year was that?

*Mrs. COWAN*: In 1904. We have passed a further amendment of the Interpretation Act since then. It is practically in exactly the same words as those of the original Act in point of whether the phrase "masculine gender" includes "feminine gender". On the same occasion Judge McMillan said—

If a change is to be made, as if for the future women are to be eligible for admission to the Bench as well as to the Bar because it seems to me if they are entitled to become members of the Bar they are eligible to sit on this Bench—the change is of such importance that it should be made, and in fact can only be made, by the Legislature.

*Judge Burnside said—*

That is a negative statute. It says it shall not be lawful for any person to act as agent or practitioner in the court without first having obtained the certificate of the Commissioner of the Court.

Again the Judge said—

There is nothing there conferring a right on women to be admitted as solicitors.

He went on to say he had been unable to find any instances under the common law of the United States, which is based on the common law of England, or any instance in England or any British speaking colony, where the right of women to be admitted to the Bar had ever been suggested. The learned judge added—

It is not a common law right. It is a privilege which has been conferred by the courts originally, and then been regulated subsequently by statute almost from time immemorial, and which has been confined to the male sex. I agree with what has been said by my learned brothers, and I am not prepared to start making law. When the Legislature in its wisdom confers the right on women, then we shall be pleased to admit them.

I have noted these opinions merely to show the necessity for the Bill. In South Australia a little while ago it was found necessary to bring in a special Bill to interpret their law. They admitted women to be barristers in 1911, yet had to amend that Act to allow women being made public notaries. That only shows what a difficult thing law is, and how necessary it is to have some definite provision given women the proper legal status.

*Hon. W. C. Angwin:* You want a Bill that people can understand.

*Mrs. COWAN:* Yes, if possible.

*Mr Marshall:* You will be cutting all the solicitors and barristers out of their jobs.

*Mrs. COWAN:* In answer to that, it is another case of letting "justice be done though the heavens fall." Women will never get these positions while men wish to keep them out.

*Mr Latham:* Surely you do not want generally to bring women down to the level of men?

*Mrs. COWAN:* No, I want to raise men to the level of women. That may be possible. I am not asking for anything that has not been done in other countries. Women in other countries have been treated with the greatest consideration and admitted to all these

different professions without any great difficulty, and it is somewhat surprising to note the countries have done justice to women in many ways.

*Mr Davies:* Do you think it fair that a married woman should hold an hotel license?

*Mrs. COWAN:* Yes, even that, should she so wish, if her husband is not able to keep her. There are plenty of women whose husbands have not been able to keep them, and it may be well if women can enter the higher professions and earn a good living when their husbands have been unable to earn it for them. America has women judges in the children's court, and why not have them here? Why not have them to deal with women's avocations when they apply to the Arbitration Court? I fail to see any anomaly in permitting women to hold these positions, or even in making them Ministers of the Crown. It is not long since we had the curious and amusing anomaly, in New South Wales, I think, of a man being appointed Minister for Motherhood. I do not know what he could possibly know about motherhood, or what sort of judge on those questions he was expected to be. I think it would be better to have women in the Parliament and; if there was to be a post to deal with mothers, it should be given to a woman, preferably to one who was a mother. This goes to show how necessary it is to have some sort of equality in the matter.

*Hon. W. C. Angwin:* Generally those women who possess the greatest qualifications have never been mothers.

*Mrs. COWAN:* Not necessarily. I do not want Western Australia to lag behind the other countries. Women are admitted to the bar in almost every State of Australia, namely, Victoria, Queensland, New South Wales and South Australia and I am asking the House amongst other things, to make it possible for them to be admitted here. In America, Great Britain, Germany, Belgium, Austria, Spain, Portugal, Argentine and India also, women are admitted to the bar. I do not wish my country to be behind those countries; nor do I wish our men to be considered less chivalrous or less ready to look up to their sisters, mothers and aunts than men anywhere else. It should be necessary only to bring this matter under the notice of members to make them realise the absolute justice of my request. In Denmark women are magistrates, jurors, barristers, judges and police; in Canada they are notaries and barristers. In the Crimea and Czecho-Slovakia a woman is vice-president of the Diet, and women may be members. In Czecho-Slovakia there are 13 women in the House of Representatives, and three in the Senate.

Dr Ella C. Potter, of Philadelphia, is Commissioner of Public Welfare and a member of the Cabinet of the Governor of Pennsylvania. Mrs C. Bennett Smith, of Buffalo, is President of the Civil Service Commission. I wonder what would be said if it were suggested that a woman be Civil Service Commissioner. Everyone would get a shock, but I do not know that the result would be less satisfactory than when the office is filled by a man.

*Hon. W. C. Angwin:* A lot of young women are employed in the civil service.

*Mrs. COWAN:* And the service is none the worse for that. Dame Anderson, MA, is the principal inspector of factories in Great Britain and has held that position for 30 years. The Minister for Education in British Columbia is a woman. In Munich there are women jurors, and women are admitted to practice in courts Nos. 1 and 2, and also in the High Court. Then we have doctors honoris causa, a high academical degree, allowed to

women in the University of Berlin. The first lady to get this degree received it on her 70th birthday. I do not know that I could succeed in getting such a degree on my 70th birthday, but it is nice to know that it is possible. Of course, one does not know what can be done until one tries. Women are magistrates and jurors in Dresden. In Ohio, Miss F E Allen donned the black robes of high judicial office and ascended the bench of the Ohio Supreme Court. She is the first woman to be elected a common pleas judge in the United States and the first to be elected to a court of last resort. I have quoted a very fair list that should make members realise they owe something to the women here who might very well be given the privilege, or rather the right, and the common justice of competing and standing side by side with their brothers wherever it is possible to do so. We must have wider avenues of employment for our women because the men are not marrying.

*Hon. W. C. Angwin:* Some of them say that is due to women taking their jobs.

*Mrs. COWAN:* I know there are members of this House who, if Perth were a Mormon city, would be only too pleased to help us remedy that position. But we do not all desire that. What we do want is the possibility of standing side by side with our men and getting admission to all these different professions, entrance to which will carry further admission to the higher professions. We are ready to face the responsibilities, but we cannot expect to attain our goal unless the whole community are willing to see us there. I see no reason why it should not be possible to win the approval of the community.

*The Minister for Works:* Do not rush in where angels fear to tread.

*Mrs. COWAN:* In the first place I asked the Solicitor General to frame a Bill that would make it possible for women to be admitted as barristers, but on going into the matter more thoroughly, I concluded it would be better to ask for the wider privileges set out in my Bill. He advised me that the inclusion of part of the English Act would clear away any ambiguity for the future, and therefore I thought it only right to bring this Bill forward. I hope members will regard this request seriously. The women are very desirous, as also are many married men, of their being placed on absolutely equal terms with the men, leaving it to be a matter of the survival of the fittest. We ask for neither more nor less than that, and I hope members will favourably consider the Bill and pass it. I move—

*That the Bill be now read a second time.*

On motion by the Minister for Agriculture, debate adjourned.

\*\*\*[OTHER SPEAKERS]

## 7 November 1923, *Hansard* pp. 1380-1382

*Mrs. COWAN:* (West Perth—in reply) [8.30]: I am sorry that some members imagine that I or any other woman would wish to introduce legislation to deprive women of the protective measures given to them for racial reasons.

*Mr Mullany:* The Bill is doing it.

*Mrs. COWAN:* For fear that might be the position, as when suggested by the member for North-East Fremantle (Hon. W C Angwin), I waited upon the Solicitor General and discussed the matter with him. This is his opinion—

The Bill, which removes certain disqualifications on account of sex, in no way affects the provisions of other Acts, such as the Factories and Shops Act, enacted in the interests of women and girls and for their protection. The Bill, as you are aware, adopts the Imperial Acts 9 and 10, Geo. V., C.71. and the New South Wales Act of 1919. It has never been suggested in England or New South Wales that the removal of these disqualifications would be to prejudice women in other directions. The Factory Acts, for instance, in England and New South Wales, contain provisions for the protection of women and young persons, just as in our Acts, which are wholly unaffected by the removal of sex disqualification.

The Solicitor General says he sees no reason why I should not proceed with the Bill.

*Mc McCallum:* I would not rely on his opinion too much.

*Mrs. COWAN:* I will not object to an amendment such as the member for North-East Fremantle suggested. No woman would wish for anything that would harm any member of her sex. If we made it possible for women to work in lead factories, we would harm our race, and no one desires to do that. Something has been said about the position of married women. The suggestion that disqualifications should apply to them is a mistake, for many reasons. I know of no reason why married women should not be allowed to teach in our schools. Surely a married woman is the very best person to do so when her children have reached a reasonable age.

*Mr Davies:* Married women are not prevented from teaching today.

*Mrs. COWAN:* Yes, they are.

*The Minister for Mines:* They are not.

*Mr Davies:* There are plenty of married women who are teaching. I know of many cases.

*Mrs. COWAN:* They are not allowed to teach unless they are widows. They have to resign if they get married.

*The Minister for Mines:* I can give you two instances where married women are teaching, and the husbands stay at home to do the housework!

*Mrs. COWAN:* If they are not men enough to go out and earn a living for their families, do you blame the women for doing it?

*The Minister for Mines:* No, I am envious of them.

*Mrs. COWAN:* Women are allowed to work at various vocations. For instance, nursing, teaching, housekeeping, acting and gardening are vocations and we would not think of debarring women from participating in them, whether they be married or single. If a woman is able, and it is necessary to augment the family income, she should be permitted to do so. I have not heard anyone suggest the necessity for a law to prohibit women, when the necessity arises, from going out charring or washing or doing any other unpleasant work. No one has suggested that should be disallowed.

*Mr Latham:* You would not suggest that the men should do that work?

*Mrs. COWAN:* Why not? They are as capable as we are.

*Mr McCallum:* What about the Factories and Shops Act, and the Mines Regulation Act?

*Mrs. COWAN:* That does not prevent women from going out washing.

*Mr McCallum:* It prevents them from engaging in some objectionable avocations.

*Mrs. COWAN:* The hon. member talked about certain Acts which seek to protect the interests of women, but no one desires to interfere with them.

*Mr McCallum:* But the Bill does so.

*Mrs. COWAN:* No one would say that a woman should not be prevented from working for six weeks before or after the birth of a child. No attempt is made in the Bill to interfere with that. While such a legislative provision does exist, why has no one attempted to provide that if she stops at home during the trying period she passes through at that time there should be monetary provision to show of it?

*Mr McCallum:* Only the trades unions have attempted to do anything in that direction.

*Mrs. COWAN:* That is not so. Women should receive better consideration in those circumstances, and we have not got it.

*Mr Cunningham:* You will not get it from your side of the House.

*Mrs. COWAN:* It is a great mistake to say that.

*Mr Hughes:* Your Party control the Government; why do you not do something?

*Mrs. COWAN:* When a family has grown up, why should the wife not be permitted to go out and do something? Women get very lonely when their husbands are away all the time. I do not wish to indulge in mutual recriminations on the subject, but I was sorry to hear the member for Mt Magnet (Hon. M F Troy) speak as he did. After all, it is not altogether the fault of women and girls that they have to go out to work. The fact is that no man can keep a family of four or five girls going unless he is wealthy. In such circumstances, the girls have to do something to maintain themselves. Unless we open various vocations to enable those girls to earn their living, they cannot be kept at home because, under existing conditions, those very things which would keep them at home have been removed outside for commercial reasons. That is one reason why I ask for

the passage of the Bill. I want to know why we do not object to women washing and charring?

*Mr Latham:* You do not expect a man to do that sort of thing?

*Mrs. COWAN:* There is a great deal of truth in what Havelock Ellis said when he referred to the curious point of view we hold regarding the opposite sex. He said—  
It is perhaps not strange that the uncertainty of knowing whether she was a goddess, or a house-servant, or something in between, should have stricken women so long with a kind of paralysis.

Women are recovering from that state of paralysis, and are asking for these various things now. That paralysis is at an end, and women are realising that they must be out and alongside their menfolk. It will take some time for the menfolk to get used to it, and it is rather hard for them at the start. Wise women will see that it is done as tactfully as possible, and men need not be afraid.

*Hon. W.C. Angwin:* Women do not want to go on juries now.

*Mrs. COWAN:* Yes, they do, in cases where women and children are concerned. Havelock Ellis also said—

We may regard all discussion on the everlasting alleged inferiority of women as absolutely futile and foolish, and also that the conviction of some men that women are not fitted to exercise various social and political duties, and the conviction of some women that men are a morally inferior sex, are both alike absurd, for they both rest on the assumption that women do not inherit from their fathers, nor men from their mothers. We are not at liberty to introduce any artificial sex barrier into social concerns, for the hope of our future civilisation lies in the development in equal freedom of both masculine and feminine elements in life.

We must work together and be side by side.

*Mr J Thomson:* Who wrote that?

*Mrs. COWAN:* Those are the words of Havelock Ellis, the noted writer on sociological topics.

*Mr J Thomson:* I do not know him.

*Mrs. COWAN:* The hon. member should know all of these writers. Havelock Ellis is a famous scientist.

*Mr J Thomson:* I do not know him, and I do not want to know him.

*Mrs. COWAN:* I trust hon. members will agree to the second reading of the Bill, and that women will be admitted to the various vocations where they can gain a footing. I trust they will occupy a better position in time to come.

Question put and passed.

Bill read a second time.

## IN COMMITTEE

### Legislative Assembly, 5 December 1923 *Hansard* pp. 1382-11383.

*Mr Angelo in the Chair:* Mrs Cowan in charge of the Bill.

Clause 1—agreed to.

Clause 2—Removal of disqualification on grounds of success [sic].

*Hon. W. C. Angwin:* No doubt the Solicitor General was right when he said the Bill did not actually repeal any other Act. I have looked up the English Act, from which the Bill is taken, and find that the list of Acts affected is set out in the schedule. The Bill is almost word for word with the first portion of the English Act which, however, contains four clauses, one of which has a number of paragraphs. One of the objects of the English Act was to permit women to serve on juries. There is special provision setting out how juries are to be called.

*Mrs. COWAN:* I will not ask for any provision regarding women sitting on juries.

*The Minister for Mines:* Women do not want to take that responsibility, but they wish to be admitted to the bar.

*Hon. W. C. Angwin:* I know that women do not want to act on juries.

*Mrs. COWAN:* I think they do.

*Hon. W. C. Angwin:* The hon. member does not know the views of her own sex! They do not want to sit on juries. For that matter, men do not wish to go on juries either.

*Mrs. COWAN:* In any case, I do not ask for that provision.

*Mc McCallum:* But the Bill brings in everything.

*Hon. W. C. Angwin:* The English Act was assented to on the 23rd December, 1919, and it is similar to the Bill before us in regard to the first section. The Bill will repeal other Acts passed for the protection of women.

*Mrs. COWAN:* No, that is not altogether desired.

*Hon. W. C. Angwin:* But it repeals everything.

*Hon. P. Collier:* You are embracing everything under your Bill.

*Mrs. COWAN:* No, I am not.

*Hon. W. C. Angwin:* The English Act repeals portions of the following Acts:

The Juries Act, 1870; the Juries Act (Ireland), 1871; the Local Government Act, 1894; the Local Government (Scotland) Act, 1894; the Local Government (Ireland) Act, 1898; the Qualification of Women (County and Borough Councils) Act, 1907; the Qualification of Women (County Town Councils) (Scotland) Act, 1907; the Local Authorities (Ireland) (Qualification of Women) Act, 1911; the County and Borough Councils (Qualification) Act, 1914; and the County, Town and Parish Councils (Qualification) (Scotland) Act 1914. All the other Acts not repealed do stand. Therefore the Solicitor General was correct. I am confident a majority of the women do not want to serve on juries. Perhaps half a dozen do.

*The Minister for Mines:* We could name them, too.

*Hon. W. C. Angwin:* I could name some of them. Women generally have not expressed any wish to serve on juries. How would it be possible for a majority of women to leave their families and serve on juries perhaps for a week?

*Hon. P. Collier:* If they were summoned they would have to serve.

*Hon. W. C. Angwin:* To include the words "or marriage" would have the effect of taking mothers away from their children. My wife would not go; she would rather pay the fine. She is opposed to women getting these powers, and there are thousands of others holding similar views. Those asking for these powers number perhaps a dozen in Perth and the country.

*Hon. P. Collier:* None in the country.

*Hon. W. C. Angwin:* There will be no choice; they will be compelled to serve on juries, and I am sure the women would resent such a provision. The member for West Perth (Mrs Cowan) should confine the Bill to what she definitely desires. If she wishes to make provision for women to enter the legal profession, she should stipulate it.

*Mrs. COWAN:* The Solicitor General tells me that does not apply.

*Hon. T. WALKER:* The amendment might well be accepted as a preliminary to a more drastic amendment. The word "sex" covers both married and single women. The New South Wales Act provided that a person shall not by reason of sex be deemed to be under any disability or subject to any disqualification. That covers all women. Therefore it is not necessary to include the words "or marriage". In England there are special reasons for including these words. Marriage does carry certain disqualifications as to occupying a position or exercising power under the English law. We have got rid of those, so we need not retain the words. Marriage does carry certain disqualifications as to occupying a position or exercising power under the English law. We have got rid of

those, so we need not retain the words in this clause. Evidently there has been too much hasty copying of the English statute. The clause shows the evil of copying. When an Act specially repeals other Acts only those mentioned are affected. The Acts not mentioned still operate. The concluding phrase of Clause 2 is taken from New South Wales for this clause. She should state definitely what she desires, and leave untouched what she wishes to preserve. Then there could be no doubt as to how other matters will be affected.

Mrs Cowan: I do not object to adopting the New South Wales section.

Hon. T. Walker: It would be better to report progress in order that the matter might be carefully considered.

Progress reported.

## STANDING ORDERS SUSPENSION-CLOSE OF SESSION

Legislative Assembly 29 November 1923  
*Hansard p. 1732*

Mrs Cowan: I rose before the Premier, but you did not permit me to speak. I wished to ask a question.

Mr SPEAKER: If the member for West Perth rose before the Premier replied, I did not see her. If she desires to ask a question I will permit her to do so.

Mrs COWAN: Will the Premier see that an opportunity is given for the consideration of the Women's Legal Status Bill so that it may be sent to another place and dealt with before the end of the session?

The PREMIER: Yes.

Question put and passed.

## IN COMMITTEE

Legislative Assembly, 5 December 1923  
*Hansard p. 1843.*

Resumed from the 7 the November. Mr Angelo in the Chair; Mrs Cowan in Charge of the Bill.

Clause 2-Removal of disqualification on grounds of sex:

Hon. W.C. Angwin had moved to strike out of line 1 the words "or marriage".

Amendment put and passed.

Mrs Cowan: I move an amendment-

That in line 7 the words "civil" and "or vocation" be struck out.

I do not wish to convey the impression or make it possible that there shall be anything detrimental to the interests of women under this measure. The Solicitor General contends that the amendment is unnecessary, but I have decided that it would be better to make sure by deleting the words mentioned.

Amendment put and passed; the clause, as amended, agreed to.

Title-agreed to.

Bill reported with amendments.