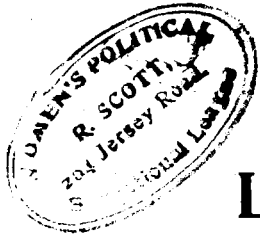


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8 President's Address



Legislation Affecting Women and Children.

LADY RAWSON, AND LADIES OF THE NATIONAL COUNCIL OF WOMEN IN N. S. WALES,—

One of the Committees in connection with the International Council was the Committee on Laws *re* "Domestic Relations," now altered to a Committee "on Laws concerning the Legal Position of Women," and as I have been the Representative upon the National Council of New South Wales for this Committee for some years, I have been asked to write a paper on "Laws affecting Women and Children." Now, legislation for the benefit of women, and children, is very closely interwoven—so much so that it is often impossible to separate the interests of mother and child. The original organisation of the family was through the mother, and not through the father, and the most ancient system in which the idea of blood relationship was embodied was a system "of kinship through females only." Now and again travellers in Africa, Australia, etc., find this state of affairs still existent, remnants as it were, of the Matriarchal age, when women were free and their children were their own. When men began to capture women and to buy wives, the fact that the wives and mothers were the property of men, naturally affected the children, who then ceased to belong to the mother, but belonged to the father who had bought his wife—"just as the fruit belongs to the tree." As time went on, men began to legislate and place laws upon the Statute Book which confirmed their sole right to the children, and the mother, the wife, the woman, became more and more a mere creature of sex and less and less of a human being—in fact, we know that in Eastern countries woman has been regarded for centuries as a being without a soul, and indirectly this measure of regard has prevailed in European countries, so far as the law is concerned, although it has been decently veiled in social life. Now, a one-sided development which gave the children entirely to the mother was bound to bring about re-action—a re-action which although unjust also was perhaps necessary in order to develop the fatherhood of man. But we see to-day in this twentieth century a tide in human affairs carrying with it more justice to women and also murmuring of children, their rights, their necessities, and their protection even apart from the ownership of parents. Free kindergartens, child study associations, have grown up, and even of greater importance has been the fixed determination on the part of certain women all over the civilised world to gain legislation for the betterment of children, in regard not only to the State and industrial world, but also in regard to their treatment by their parents. What greater inspiration had those women who battled for the Franchise for women than this? The cry of the children—and the bitter degradation of their own sex?—appealing as it does to our motherhood—the evolution of woman as the mother having been based upon her primitive instinct to struggle for the life of others.

THE LAWS *RE* WOMEN.

Women who have not worked for the Franchise often say, "What do we need? Men are gradually giving us all we want!" Those women do not know, or forget that for any law passed worth anything to us, women have been pleading for years and years. Man's legislation for women is sometimes evolved out of his "inner consciousness," and is therefore quite out of sympathy with the real needs of women. Take the breach of promise laws—what absurdities are involved? What self-respecting woman would take advantage of such a law? What womanly woman would bargain for marriage when love had flown, or take a money compensation for a broken heart? As to the divorce Laws, which are now controlled by Federal Parliament, they are also man-made, and although I would agree that they should be equal—the same for woman as for man—yet I am very far from believing (except for the cause Christ indicated) that women, as a rule, are at all in sympathy with easy divorce, which has a tendency to degrade family life, ignore responsibilities to children, and in every way lower the whole tone of public opinion with regard to marriage and all it should mean to those who enter into it. With regard to property, men have been quick to legislate. The rights of property have always been more earnestly considered than the rights of the human being. The criminal who injures or appropriates another man's property is more heavily punished by law than the man who brutally injures or thrashes his own wife or children. To burn an acre or so of grass or hay will render a man liable to penal servitude for 14 years, whereas indecent assaults on little children under 14 can only be punished with 5 years as the highest penalty, and a more aggravated and wicked assault carries with it 10 years as the highest penalty. Think of this, and think also that if a man destroyed any tree, sapling, shrub or plant in any garden or a park, and that damage was reckoned at over £1, he would be liable to 5 years—a tree, sapling, shrub or plant and its injury being reckoned as deserving equal punishment to the injury inflicted for life on a poor little child. The destruction of a few vines, hop plants or sugar-cane carries with it a penalty of ten years, whereas the vilest injury done to a little girl between 10 and 14 can carry with it no higher penalty, and yet there are women content that men should make the laws.

EQUAL PAY, EQUAL WORK.

Why is it that in every country, except where women have the vote, men arrange that women in Government service should be paid less than men for the same work? It is impossible to enter more fully in a short paper into the cruelties and injustice of the law. Fortunately men are, as a rule, far better than the laws, and do not make the majority of women and children suffer from them—but the fact remains that hundreds do suffer from them all the same, and every day their cry goes up to heaven and to their fellow-creatures for redress. The fact that men could not bear to see the money they had given their daughters squandered by reckless or improvident husbands, made the lever which ultimately resulted in "The Married Woman's Property Act," in force now in England and all the States of Australia; before that a husband had absolute right even to the earnings which his wife might have labored for, to give food and clothes to her children. Before we leave the subject of property it is necessary to tell you that when a wife in New South Wales has no private property, she is absolutely dependent upon her husband's bounty beyond the fact of bare maintenance. He may be generous or he may be stingy. She may earn a large part of the income if they are in business, and yet she is not legally entitled to wages of any kind. She may have been earning £50 or £100 a year as a housekeeper—as a wife she is at once as dependent as a child. The economic independence of married women and their right to a certain portion of their husband's income, is a matter which must eventually be settled, as the present state of affairs, unfelt by many women, brings untold misery into many homes and into the lives of many families where the husband and father is a gambler, drunkard, or worse. Very little legislation, such as women desire, not only in New South Wales but all over the world, has as yet been gained in New South Wales for women and children. Gladly did we welcome the appointment of Miss Duncan as our Lady Factory Inspector; of Miss Fergusson as a Sanitary Inspector; and we have to thank the late Government for appointing Dr. Mary Booth as a Lecturer on Hygiene to the Public Schools, and Dr. Agnes Bennett to care for the poor women lunatics. In Victoria, women can practice as lawyers, and in Tasmania we see only this week a bill passed to that effect—whilst in New South Wales, our lady barrister, who has attained to the dignity of an LL.B., is not as yet legally qualified to practice. How much better it would be if poor women who, for the sake of their children and their own safety are compelled to ask for a legal separation or a divorce, could confide all their wretchedness to one of their own sex. Now that women have a vote and a distinct power in regard to the laws of the land, we must hope that they will gradually awaken to the fact that election time, with all its false ideals, is the least important time in the work of legislation, and that the ever watchful organisations who keep knocking at the doors of all parties in Parliament with requests for better legislation, will at last be heard if only for their "much speaking!" Do most women recognise the fact that children belong virtually to fathers only in New South Wales? That the father, who also as a rule has complete control over the purse, has also complete control over the children, their education, their religion, their domicile, the choice of preparation for their future life work—all is in the control of the father—and even when dead he can by his will leave them in the hands of guardians other than their mother, and although compelled by law when living, to clothe and feed them, he can in his will leave them and their mother penniless; or dictate their removal to a far distant land, educated as he pleases, brought up in any religion he may choose to dictate. Now, many will say "this does not often happen," and it is true that, as I said before, men as a rule are better than the laws; but all these things happen much more often than is generally supposed. In England, and in Queensland also, "A Custody of Infants' Act" was passed, which gives the mother some right to her children, and allows her to appoint guardians in her will. In New Zealand a Family Maintenance Act has been passed, which insists that at the death of a man (whether he makes a will to the contrary or not) so much of his property must belong to his wife and children. In South Australia the Act is now before the Parliament. A lawyer here of some note, told me that he was sick of men coming to him to make wills, leaving all their money away from their wives, and we owe gratitude to Mr. Hughes, the Vice-President of the Executive, in that he brought in a Bill to alter the law in New South Wales last session; but the Upper House threw it out. We must hope that New South Wales will eventually follow New Zealand with regard to this Act, and Queensland with regard to the Custody of Infants' Act. Both these Acts affect children very seriously; not all children, but very many. The laws are not made to control men who know how to act rightly; but they are made to prevent bad or foolish men from acting wrongly and so jeopardising the interests of their wives and children.

The education question also greatly affects children, and it seems very absurd that men, and men only, should regulate the education of little girls in the State—that inspectors of public schools should all be men, and compelled to inspect the needlework of the pupils as well as all else they do. Equally absurd is it that the Senate of the University should all be men, and that no woman should be upon that august board to represent the interests of women. But the education question would require a lecture by itself, and I only refer to it to show you in how many ways children are affected by legislation. Then there is the question of child labor, a question that it behoves us women to watch. A child in N.S.W. may not go to work till 14, but the Minister can give permits, and so many children below this age are unfortunately either obliged or allowed to work. In the last report of the Factories and Early Closing Act we learn that 402 children below 14 were employed last year, but that in 1902 490 below the age had been employed. This looks like some improvement, and it is to be hoped such watchfulness will be exercised that still further improvement for the protection of children may take place. In the southern mills of America (in States, of course, where women have no vote) the situation is simply appalling with regard to the employment of children, and as commercial greed is ever on the watch to make money, often at any cost to humanity, and as such situations as these creep on stealthily and almost imperceptibly, we must be ever on the watch—for helpless children cannot speak. In a book recently published by two women in America,

"The Woman Who Toils," there is a chapter devoted to the description of children in the textile mills of the southern States. Little children of six, seven, eight and older are seen at work in these mills for 12, ~~over 13~~ hours a day. It seems incredible. When the bell rings for the half-hour given for luncheon the little things often fall asleep with the half eaten lunch in their hands, for the constant whirl and movement of machinery has a most exhausting effect, even on adults. At home the children throw themselves upon their beds night after night without even taking off their clothes, so exhausted are they, and so soon have they to be off again to work in the morning. In a certain mill in Alabama there are 75 child laborers, who work 12 hours out of the 24 and 50 out of these 75 troop after the day's work is over to a night school! "Although they are so tired they cannot keep awake on the benches, and the smallest fall asleep over their letters, although they weep with fatigue, they are eager to learn." Why do I tell you this? Because the price of liberty is eternal vigilance! and because if we effectually resist such evil conditions in our mills and factories here, it will have its effect in America, for the eyes of the world are now upon Australia (freest country in all the world so far as that hall mark of freedom, the vote, is concerned), and it is not only in the mills that children are overworked. The odious system of so-called education, even here, combined with what are known as "home lessons," makes us wish for another Mrs. Browning to arise and write of the children who slave at night under the gaslight, when they ought to be in bed. We might say—

"They are working in the rest-time of the others,
In the country of the free."

Miss Spence, in an able lecture here, declared that she would like to see more interference for the protection of children in dairying districts in Australia, nearly all these children having work to do in the early morning, cows to be milked, cows, pigs and calves to be fed, wood and water to be got ready perhaps, for their mothers, the father and four or five children often having to milk 80 or 90 cows night and morning. Some of the children get to school early, others late, and others again appear at about 11 o'clock, tired with their morning's work and ready to yawn over their books before dinner time comes. These children have often to walk two miles to school and back again. Parental affection has only too frequently been found insufficient to protect little children when they can, by their labour, add to the income of the family. In Lancashire, Lord Ashley's Act had to interfere with parents living on their children's wages and limit parental authority. There is another and more dangerous aspect of this question. To overwork a growing child means not only a deterioration of the race physique; it also means mental and moral deterioration. The evolution of the tramp in America is distinctly traced to overwork in childhood. "The boy or girl who works too early," says Miss Spence's friend, Miss Adams, "is infected with labour, bankrupt of ambition long before work should properly have begun at all. In the region of Hull House, a university centre, found and maintained by women in one of the poorest quarters in Chicago, we find any number of boys and girls about 18 or 19 years of age who are suffering from what we call "moral fatigue." They will not work, and they will not try to get work. They have lost their energy and power through overwork, caused by tremendous physical effort when they were too young to bear the burden. And now I would like more especially to refer to certain legislation brought in by Mr. Wise and Dr. Mackellar and passed by the Upper House last session. The House of Assembly having no time to deal with these valuable bills before the final session of Parliament closed, it has become necessary to re-introduce them, and this we hope the present Ministry will do. I shall briefly refer to the "Girls' Protection Act," which is to protect young girls up to 17 from the wiles of wicked men. Fourteen, the present age, is, we affirm, the age of a child unable to judge for herself. Girls cannot be apprenticed, married, or dispose of property without the consent of their parents or guardians till they are 21. How much more necessary is it to protect them to at least 17 from danger of another kind—the danger of a ruined life? And yet we have as yet failed to secure this Bill, in spite of depositions and petitions extending over 14 or 15 years. The second Bill is "The Infants' Protection Act," and is framed for the better protection of infants born in sad and unfortunate circumstances, and by this Act the fathers of such little ones, if illegitimate, must take a greater share than formerly, of the responsibility incurred—a responsibility which in the past has fallen only too heavily upon the mother alone. In South Australia, poor little forsaken babies are taken great care of, boarded out to kind mothers, and inspected constantly by a trained nurse, who also loves the children as if they were her own. This system has been working now for five years and Miss Spence is proud of results and the low death rate which prevails. We also have the boarding out system in N.S.W., and so has Victoria, but we have not the South Australian thorough system of inspection (upon which so much depends), nor have we a home for children before trial as Victoria has. The third Bill we hope to see passed is called the "Criminal Amendment Act," and it is an act to deal with habitual criminals, especially those dangerous to little children, and to keep such criminals in confinement for an indefinite time. The indeterminate sentence works well in America, and has the approval of the Comptroller-General here. The National Council of N.S.W. sent a resolution to the late Government with regard to these criminals dangerous to little children and the other day the Discharged Prisoners' Committee had a deputation to Mr. Wade with regard to the same Bill. A Bill of this character passed the House of Commons only this year. Last, but not least, we now come to "The State Children's Bill," a bill devised to deal with State children and also casual or suspected offenders amongst children. This bill makes provision for removing children (taken up by the police) from the contaminating influence of police courts and gaols, and also provides for children's shelters and juvenile courts as they are sometimes called—"A Day Industrial School" to prevent truancy, which our Comptroller-General considers leads to so much crime. It also makes provision for dealing with the more depraved and incorrigible children at an industrial or reformatory school and to license (without charge) children selling goods in public places, a

very necessary provision, as many poor little children are sent out to excite pity and procure money in this way for drunken and dissolute parents. A license would demand inquiry and inspection and parents in trouble or sickness would be allowed that help which, very rightly, must be denied to the unworthy. The juvenile courts and children's shelters are a great success both in South Australia, Canada and some States of America, and our humane Comptroller-General considers that the present system of letting children hang about the police courts awaiting trial, listening often to the most disgusting cases before their turn comes on to be tried, leads more than anything else to educate children as criminals. Last year, I grieve to tell you, 120 children were sent to gaol in N.S.W. We have (thanks to Dr. Ross) a Juvenile Smoking Bill in N.S.W., which prevents children buying or smoking cigarettes under the age of 16. We also have an Inebriate Bill, passed by the last Parliament; and a home or hospital where these unfortunate people can be treated apart from criminals is already preparing and Mr. Wise said, almost finished, on the Hawkesbury. This is a measure greatly affecting women, both directly and indirectly. Although no actual law had to be passed to procure police matrons, I must allude to the necessity for these women officers to take care of women taken up night or day and taken to the cells to wait trial. N.S.W. (and Queensland, which followed our example) are the only States that have police matrons. Mr. Brunner granted our prayer to appoint the first we ever had, and three at the Central, and one in Newcastle were appointed by Mr. Fosbery. Mr. Garvin, the present Inspector-General, also appointed a police matron to the Water Police Court, Mr. Perry having granted the permission. Mr. Garvin has also stopped the dreadful practice we so often protested against, of men and women criminals travelling in the same police van to gaol. It is absolutely necessary for us to acquaint ourselves with the conditions which prevail in our country, and to see with our own eyes how our women prisoners and criminals are treated. To visit the gaols a few years ago was a liberal education in the methods of men, and the necessity for women to take their part in state affairs. The women were treated in every way far worse than the men criminals were, and even now things are only a little better, and not what our kind Comptroller-General desires or can arrange till the prison at Long Bay is completed.

There is one more law which I must speak of. It is called the "C. D. Act," or Contagious Diseases Act. I am glad to say that although this Act is in force in Queensland and Tasmania it does *not* prevail in N.S.W. But as there have been evil rumours abroad as to the bringing in of such an Act, it is absolutely necessary for women who wish to know about the laws to allude to it. A system of licensed vice, degrading women, and allowing men to consider vice and the degradation of women a necessity! The efforts of a noble woman, Josephine Butler, did away with this horrible law in England, and now we hear with joy that all the leading doctors and scientists at the great congress in Brussels have declared these Acts an absolute failure. Dr. Gancher, in France, the highest authority in the world upon this subject, emphatically supported the abolition of these Acts throughout the world. The first congress in 1899 was, on the whole, against the Acts; the second congress, held again in Brussels in 1902, was, as I have told you, even more opposed to them. The Russian representative said abolition was sure to come through "moral enlightenment," and Josephine Butler's heart rejoiced when she heard that science had supported her work. "The facts of nature," she declared, "are not allowed by the God of nature to contradict the facts of our moral life." We see by this that we women in Australia must be on the watch both morally and scientifically against the re-introduction of these vile acts into our country. The supporters of them can scarcely be aware of the fiat of the congress, which was "that it is necessary above everything to teach men that not only are chastity and continence not injurious, but also that these virtues are most desirable from a medical point of view." Before God we women are human beings and who can dare to say that we are treated as such, when some of us are petted and worshipped, and some of us, even children, are degraded by men as a matter of course. Let every woman feel as Moses did in the Land of Egypt, surrounded perhaps by comfort and luxury and yet filled with divine discontent because we must do our part to lead our sister women into that Land of Canaan, which shall blossom for them with freedom—freedom from injustice, freedom from the misery of industrial conditions, and above all, freedom from the loathsome slavery of sex.

Do not let us despair, and think "What can I do?" The chief work in the world is done by individual effort. We are each one of us responsible in a measure (when once we know) for all the sins of all the world. We are, in Australia, the freest people in the world, but if we women merely use our vote to work for parties and politicians, men will continue to rule the world just as they have ever ruled it—in the interests of men only, and the woman's thought will be long in blossoming and bearing fruit; and the wrongs and degradation of women and children will be placed in the background as heretofore. Remember that liberty, reform always has its price—paid for sometimes with blood—sometimes with tears and aching hearts, but always with self-sacrifice. Let us remember also for our comfort that, as a clever woman wrote, "Through the working of thought, the masonry of will, the whole fabric of life is rebuilt; creed and usage are transmuted atom by atom—an idea is a soul, that creates for itself a body, and that body may eventually swell into a new social order—nay, into a new world."—*Mona Caird*.

ROSE SCOTT.

October, 1904.

Since writing above, Infants' Protection Bill passed in December, 1904, and Criminal Amendment Act is to be made a Government measure next session. The State Children's Bill, and Juvenile Courts will also, we trust, receive the attention of the Government.