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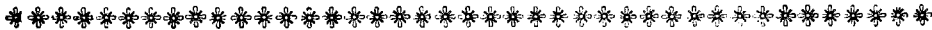


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ANNO QUADRAGESIMO-SEXTO

VICTORIÆ REGINÆ,

No. 17.



AN ACT to amend the Law relating to the A.D. 1882.
Property of Married Women.

[9 October, 1882.]

WHEREAS it is desirable to amend the Law of Property and **PREAMBLE.**
Contracts with respect to Married Women :

Be it therefore enacted by His Excellency the Governor of *Tasmania*,
by and with the advice and consent of the Legislative Council and
House of Assembly, in Parliament assembled, as follows :—

1 This Act shall commence and take effect on the First day of **Commencement**
January, One thousand eight hundred and eighty-three. **of Act.**

This Act may be cited as “The Married Women’s Property Act, **Short title.**
1883.”

2 In this Act, unless the context otherwise determines— **Interpretation.**

“Government Stock” means and includes Debentures and Treasury
Bills issued by the Governor in Council.

3—(1.) A married woman shall be capable of acquiring, holding, **Married woman**
and disposing of any real or personal property as her separate property, **to be capable of**
without the intervention of any trustee. **holding property**

(2.) A married woman shall, in respect of her separate property, be **and of contracting**
capable of entering into and rendering herself liable on any contract, **as a feme sole.**
and of suing and being sued, either in contract or in tort, or otherwise,

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in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding.

(3.) Every contract entered into by a married woman shall be deemed to be a contract entered into by her with respect to her separate property, unless the contrary be shown.

(4.) Every contract entered into by a married woman with respect to her separate property shall bind, not only the separate property which she is possessed of or entitled to at the date of the contract, but also all separate property which she may thereafter acquire.

(5.) Every married woman shall, in respect of her separate property, be subject to the Bankruptcy Laws in the same way as if she were a *feme sole*.

Property of a woman married after the Act to be held by her as a *feme sole*.

4 Every woman who marries after the commencement of this Act shall be entitled to have and hold as her separate property all real and personal property which shall belong to her at the time of marriage, or shall be acquired by or devolve upon her after marriage, including any wages, earnings, money, and property gained or acquired by her in any employment, trade, or occupation, or by the exercise of any literary, artistic, or scientific skill.

Property acquired after the Act by a woman married before the Act to be held by her as a *feme sole*.

5 Every woman married before the commencement of this Act shall be entitled to have and hold as her separate property all real and personal property, her title to which, whether vested or contingent, and whether in possession, reversion, or remainder, shall accrue after the commencement of this Act, including any wages, earnings, money, and property so gained or acquired by her as aforesaid.

As to stock, &c. to which a married woman is entitled.

6 All Government Stock which at the commencement of this Act is held by any married woman and to which she is beneficially entitled, whether such stock shall have been issued in the name of such woman or of any other person, and all shares, stock, debentures, debenture stock, or other interests in any company or society which at the commencement of this Act are standing in her name or are held by her, and to which she is beneficially entitled, shall be deemed to be the separate property of such married woman; and the Colonial Treasurer, and all directors, managers, and trustees of every company, society, and savings bank shall, on the application of such married woman, and on sufficient evidence of her title being produced, take notice thereof and act accordingly, anything contained in any Act to the contrary notwithstanding.

As to stock, &c. to be transferred, &c. to a married woman.

7 All Government stock, and all shares, stock, debentures, debenture stock, and other interests in any company or society which after the commencement of this Act shall be issued or allotted to, or placed, registered, or transferred in or into the name of any married woman, shall be deemed to be her separate property unless and until the contrary be shown, whether the same shall be so expressed in the document whereby her title to the same is created or certified, or in the books or register wherein her title is entered or recorded, or not.

As to stock, &c. standing in the joint names of a married woman and others.

8 It shall not be necessary for the husband of any married woman to join in the transfer of any Government stock, or any shares, stock, debentures, debenture stock, or other interests in any company or society, or any deposits in any bank, which are now or shall at any time here-

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after be standing in the name of any married woman, or in the joint names of such married woman and any other person or persons not being her husband. A.D. 1882.

9 A policy of assurance effected by any man on his own life, and expressed to be for the benefit of his wife, or of his wife and children, or any of them, or by any woman on her own life, and expressed to be for the benefit of her husband, or of her husband and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under any such policy shall not form part of the estate of the insured, or be subject to his or her debts : Moneys payable under policy of assurance not to form part of estate of the insured.

Provided, that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums paid.

The insured may, by the policy, or by any memorandum under his or her hand, appoint a trustee or trustees of the moneys payable under the policy, and from time to time appoint a new trustee or new trustees thereof, and may make provision for the appointment of a new trustee or new trustees thereof, and for the investment of the moneys payable under any such policy. If at the time of the death of the insured, or at any time afterwards, there shall be no trustee, or it shall be expedient to appoint a new trustee or new trustees, a trustee or trustees or a new trustee or new trustees may be appointed by the Supreme Court under the provisions of "The Trustee Act, 1852," or the Acts amending and extending the same. The receipt of a trustee or trustees duly appointed shall be a discharge to the office in which the policy is effected. 16 Vict. No. 18.

The provisions of this Section shall be in addition to and not in substitution for the provisions contained in the 38th, 39th, and 40th Sections of "The Life Assurance Companies Act, 1874." 38 Vict. No. 6.

10 Every woman, whether married before or after this Act, shall have in her own name against all persons whomsoever, including her husband, the same civil remedies, and also (subject, as regards her husband, to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property, as if such property belonged to her as a *feme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a tort: Provided always, that no criminal proceeding shall be taken by any wife against her husband by virtue of this Act, while they are living together, as to or concerning any property claimed by her, nor, while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting or about to leave or desert his wife. Remedies of married woman for protection and security of separate property.

In any civil or criminal proceeding under this Section it shall be sufficient to allege such property to be her property; and in any proceeding under this Section a husband or wife shall be competent to give evidence against each other, any law or rule, either of law or of practice, to the contrary notwithstanding.

11 A husband shall not be liable for the debts of his wife contracted before marriage, except to the extent of any property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife; and any Court in which a husband shall Husband to be liable for his wife's debts contracted before marriage to a certain extent.

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be sued for any such debt shall have power to direct any inquiry or proceedings which it may think proper for the purpose of ascertaining the nature, amount, or value of such property.

Husband not to be liable for wife's torts.

12 No husband shall, by reason of the marriage, be liable in damages for any wrong committed by his wife except for wrongs committed by her before marriage, to the same extent as he is hereinbefore made liable for debts of his wife contracted before marriage.

Act of wife liable to criminal proceedings.

13 A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife would make the husband liable to criminal proceedings by the wife under this Act, shall in like manner be liable to criminal proceedings by her husband.

Questions between husband and wife as to property to be decided in a summary way.

14 In any question between husband and wife as to the title to or possession of property, either party may apply by summons or otherwise in a summary way to a Judge of the Supreme Court, and such Judge may make such order with respect to the property in dispute, and as to the costs of and consequent on the application, as he thinks fit, or may direct such application to stand over from time to time, and any enquiry touching the matters in question to be made in such manner as he shall think fit: Provided always, that any order of a Judge to be made under the provisions of this Section shall be subject to review in the same way as an order made by the same Judge in a suit pending in the said Court would be: Provided also, that such Judge, if either party so require, may hear such application in his private room.

19 Vict. No. 23, sect. 1.

Saving of existing settlements, and the power to make future settlements.

15 Nothing in this Act contained shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage; and no settlement or agreement for a settlement shall have any greater force or validity against creditors of such woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors.