

(Hon. Mr. Fox.)

# Married Women's Property.

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## A BILL INTITULED

### AN ACT to amend the Law relating to the Property of Married Women. Title.

**W**HEREAS it is desirable to amend the law of property and contract with respect to married women: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled and by the authority of the same as follows:—

1. The Short Title of this Act shall be "The Married Women's Property Act 1871." Short Title.

2. The wages and earnings of any married woman acquired or gained by her after the passing of this Act in any employment occupation or trade in which she is engaged or which she carries on separately from her husband and also any money or property so acquired by her through the exercise of any literary artistic or scientific skill and all investments of such wages earnings money or property shall be deemed and taken to be property held and settled to her separate use independent of any husband to whom she may be married and her receipts alone shall be a good discharge for such wages earnings money and property. Earnings of married women to be deemed their own property.  
33 and 34 Vict. c. 93.

3. Notwithstanding anything contained in "The Savings Bank Act 1858" or "The Post Office Savings Bank Act 1867" or "The Post Office Savings Banks Amendment Act 1869" or any regulations

Deposits in Savings Banks to be sole property of married women.

made thereunder any deposit hereafter made in any such Savings Bank under any of the said Acts by or in the name of a married woman or by or in the name of a woman who may marry after such deposit shall be deemed to be the separate property of any such woman and the same shall be accounted for and paid to her as if she were an unmarried woman: Provided that if any such deposit is made by a married woman by means of moneys of her husband without his consent the Court may upon an application under section nine of this Act order such deposit or any part thereof to be paid to her husband. 5

As to a married woman's property in a Joint Stock Company.

Ib. s. 4.

4. Any married woman or woman about to be married may apply in writing to the Directors or Manager of any Incorporated or Joint Stock Company that any fully paid up shares or any debenture or debenture stock or any stock of such company to the holding of which no liability is attached and to which the woman so applying is entitled may be registered in the books of the said company in the name or intended name of the woman as a married woman entitled to her separate use and it shall be the duty of such Directors or Manager to register such shares or stock accordingly and the same upon being so registered shall be deemed to be the separate property of such woman and shall be transferred and the dividends and profits paid as if she were an unmarried woman: Provided that if any such investment as last mentioned is made by a married woman by means of moneys of her husband without his consent the Court may upon an application under section nine of this Act order such investment and the dividends and profits thereon or any part thereof to be transferred and paid to the husband. 10 15 20 25

As to married woman's property in a Society.

Ib. s. 5.

5. Any married woman or any woman about to be married may apply in writing to the Committee of Management of any Industrial and Provident Society or to the Trustees of any Friendly Society Benefit Building Society or Loan Society duly registered certified or enrolled under the Acts relating to such societies respectively that any share benefit debenture right or claim whatsoever in to or upon the funds of such society to the holding of which share benefit or debenture no liability is attached and to which the woman so applying is entitled may be entered in the books of the society in the name or intended name of the woman as a married woman entitled to her separate use and it shall be the duty of such committee or trustees to cause the same to be so entered and thereupon such share benefit debenture right or claim shall be deemed to be the separate property of such woman and shall be transferable and payable with all dividends and profits thereon as if she were an unmarried woman: Provided that if any such share benefit debenture right or claim has been obtained by a married woman by means of moneys of her husband without his consent the Court may upon an application under section nine of this Act order the same and the dividends and profits thereon or any part thereof to be transferred and paid to the husband. 30 35 40 45

Deposit of moneys in fraud of creditors invalid.

Ib. s. 6.

6. Nothing hereinbefore contained in reference to moneys deposited in any Savings Banks or moneys invested in shares or stock of any company shall as against creditors of the husband give validity to any deposit or investment of moneys of the husband made in fraud of such creditors and any moneys so deposited or invested may be followed as if this Act had not passed. 50

Personal property coming to a married woman to be her own.

Ib. s. 7.

7. Where any woman married after the passing of this Act shall during her marriage become entitled to any personal property as next of kin or one of the next of kin of an intestate or to any sum of money not exceeding two hundred pounds under any deed or will such property shall subject and without prejudice to the trusts of any settlement affecting the same belong to the woman for her separate use and her receipts alone shall be a good discharge for the same. 55

8. Where any freehold property shall descend upon any woman married after the passing of this Act as heiress or co-heiress of an intestate, the rents and profits of such property shall subject and without prejudice to the trusts of any settlement affecting the same belong to such woman for her separate use and her receipts alone shall be a good discharge for the same.

Freehold property coming to a married woman to be her own.  
33 and 34 Vict. s. 8.

9. In any question between husband and wife as to property declared by this Act to be the separate property of the wife either party may apply by summons or motion in a summary way either to the Supreme Court in the Judicial District in which either party resides or to a Judge thereof or to the Judge of the District Court of the district in which either party resides and thereupon the Court or Judge may make such order direct such inquiry and award such costs as it or he shall think fit: Provided that any order made by such Court or Judge shall be subject to appeal in the same manner as the order of the same Court or Judge made in any action or proceeding before such Court or Judge in it or his ordinary jurisdiction would have been and if either party so require the application may be heard in private.

How questions as to ownership of property to be settled.  
Ib. s. 9.

10. A married woman may maintain an action in her own name for the recovery of any wages earnings money and property by this Act declared to be her separate property or of any property belonging to her before marriage and which her husband shall by writing under his hand have agreed with her shall belong to her after marriage as her separate property and she shall have in her own name the same remedies both civil and criminal against all persons whomsoever for the protection and the security of such wages earnings money and property and of any chattels or other property purchased or obtained by means thereof for her own use as if such wages earnings money chattels and property belonging to her as an unmarried woman and in any indictment or other proceedings it shall be sufficient to allege such wages earnings money chattels and property to be her property.

Married woman may maintain action in her own name.  
Ib. s. 11.

11. A husband shall not by reason of any marriage which shall take place after this Act has come into operation be liable for the debts of his wife contracted before marriage but the wife shall be liable to be sued for and any property belonging to her for her separate use shall be liable to satisfy such debts as if she had continued unmarried.

Husband not liable on his wife's contracts before marriage.  
Ib. s. 12.

12. Where the husband of any woman having separate property shall be unable from any cause to support himself by his own labour then and in such case such woman shall be liable to contribute to the support of her said husband and all the provisions of an Ordinance of the Lieutenant-Governor and Legislative Council of New Zealand intituled "An Ordinance for the Support of Destitute Families and Illegitimate Children" and now in force shall so far as applicable be held and deemed to extend to the case herein provided for. And all proceedings may be had taken and enforced against such married woman as fully and effectually as if this section had been inserted in the said Ordinance.

Married woman to be liable to maintenance of her husband in certain cases.

13. A married woman having separate property shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children: Provided always that nothing in this Act shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

Married woman to be liable for maintenance of her children.  
Ib. s. 14.

14. From and after the passing of this Act it shall not be necessary for a married woman to acknowledge any deed made or executed by her in the manner provided by an Act of the Imperial Parliament passed in the Session held in the third and fourth years of the reign of His late Majesty King William the Fourth intituled "An Act for the

Deeds not to be acknowledged by married women.

3 and 4 Will. IV. c. 74.

Abolition of Fines and Recoveries and for the substitution of more simple modes of Assurance." And notwithstanding anything in the said Act contained it shall not be necessary for the husband of any such married woman to concur in any such deed and every deed or disposition so made and executed by any married woman as aforesaid shall be as valid and effectual to all intents and purposes as if all the requirements of the said Act in respect to such acknowledgment or the concurrence of her husband had been fully complied with.

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