

This PUBLIC BILL originated in the LEGISLATIVE COUNCIL, and having this day passed as now printed is transmitted to the HOUSE OF REPRESENTATIVES for its concurrence.

Legislative Council,  
28th July, 1881.

Hon. Mr. Waterhouse.

MARRIED WOMEN'S PROPERTY PROTECTION.

ANALYSIS.

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1. Short Title.	8. As to stock, &c., to be transferred, &c., to a married woman.
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3. Woman married after passing of Act may hold property.	10. Husband liable only for debts contracted after marriage with his consent.
4. Women married before the Act may hold property acquired after the Act.	11. Husband liable for wife's debts.
5. Remedies of married women for protection and security of separate property.	12. Married woman liable to support husband.
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A BILL INTITULED

AN ACT to provide for the better Protection of the Property of Married Women. Title.

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

- 5 1. The Short Title of this Act is "The Married Women's Property Protection Act, 1881." Short Title.
- 2. (1.) A married woman shall be capable of acquiring, holding, and disposing of any real or personal property as her separate property without the intervention of any trustee. Married woman may hold property.
- 10 (2.) A married woman shall be capable of entering into and rendering herself liable in any contract, and of suing and being sued, either in contract or in tort or otherwise, in all respects as though she were a *femme 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. Married woman may sue or be sued.
- 15 (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. As to contracts.
- (4.) Every married woman carrying on a separate trade shall be subject to the bankruptcy laws in the same way as if she were a *femme sole*. As to bankruptcy.
- 20 3. Every woman who marries after 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. Woman married after passing of Act may hold property.

Women married before the Act may hold property acquired after the Act.

4. 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. 5

Remedies of married women for protection and security of separate property.

5. Every woman, whether married before or after this Act, shall have in her own name the same remedies, both civil and criminal, against all persons soever, including her husband, for the protection and security of her own separate property, as if such property belonged to her as a *femme sole*, but, except as aforesaid, no husband or wife shall be entitled to sue the other for a *tort*. In any indictment or other proceeding it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband and a wife shall be competent to give evidence against each other, any statute or rule either of law or practice to the contrary notwithstanding. 10 15

Husband not liable for his wife's debts contracted before marriage, except in certain cases.

6. 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 become entitled to, or shall have acquired from or through his wife; and any Court in which a husband shall 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. 20

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

7. 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, and to which she is entitled, shall be deemed to be the separate property of such married woman; 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. 25

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

8. All shares, stock, debentures, debenture stock, and other interests in any company or society which after the commencement of this Act shall be allotted to or placed, registered, or transferred in or into the name of any married woman shall be deemed to be her separate property, 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. 30 35

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

9. It shall not be necessary for the husband of any married woman to join in the transfer of 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 hereafter be standing in the joint names of such married woman and any other person or persons not being her husband. 40

Husband liable only for debts contracted after marriage with his consent.

10. After the passing of this Act, if any woman shall be guilty of a tort, the plaintiff in any action for damages in respect of such tort shall only be entitled to enforce his action or judgment against the wife and her separate estate.

Husband liable for wife's debts.

11. A husband shall not be liable for debts contracted by his wife after marriage, unless the same are contracted by his express or implied authority or consent. 45

Married woman liable to support husband.

12. Married women shall be liable to support their husbands to the same extent as husbands are liable to support their wives.

Disputes between husband and wife as to property, how settled.

13. 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 any Judge of the Supreme Court; and such Judge may make such order in 50

respect of the property in dispute, and as to the costs of and consequent upon the application as he may think fit, or may direct such application to stand over from time to time, and any inquiry touching the matters in question to be made in such manner as he shall think fit: Provided always that any order made

5 under the provisions of this section shall be subject to appeal in the same way as any order made by the same Judge in a suit pending in the Supreme Court would be: Provided also that the said Judge may, if either party so require, hear such application in his private room.

10 14. Nothing in this Act contained shall interfere with or affect any settlement or agreement for 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 hereafter to be attached to the enjoyment of any property by a woman under any settlement, agreement for a settlement, will, or other instrument; but no  
15 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  
20 against creditors of such a woman than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors.

Saving of existing settlements, and the power of making future settlements.