policeman was engaged in *public* service which was outside the ordinary relationship of master and servant. The dissent of Williams J. was consistent with his attitude in *Quince's Case*. Dixon J. delivered a judgment disagreeing with *Quince's Case* on the score that neither the fact that a person employed has independent responsibilities of a public character nor the lack of a true contract of service negatived the existence of the relationship of master and servant. However, he thought that the reasoning of the majority in *Quince's Case*, if correct, applied just as much to the case of a member of the police force as to a member of the armed forces of the Crown, and he thought the proper course was to follow that decision in spite of his opinion that it was incorrectly decided. The general result of the decision seems to be that the outcome of future possible litigation concerning the services of Crown employees of a less "public" nature than servicemen or policemen is dubious.

Loss of Consortium.

The House of Lords decision in *Best* v. *Samuel Fox and Co.*[25] may be taken as conclusively establishing that a wife has no claim on the score of loss of *consortium* against a person who *negligently* injures her husband. The right of a husband to sue in the converse case was regarded as anomalous, but so firmly established that it could be uprooted only by statute. It was unnecessary then for the Lords to pronounce upon the Court of Appeal's decision that *consortium* was one and indivisible and destruction of sexual capacity did not amount to a loss of it, but certain opinions were expressed. Lord Goddard was in favour of the Court of Appeal's view; Lords Reid and Oaksey were against it, and Lords Porter and Morton were content to express no opinion. The matter may at some future time arise in a husband's action.

Liability of Married Women.

The *Married Women (Restraint upon Anticipation) Act of* 1952 providing (*inter alia*) that a married woman shall be capable of being rendered liable in respect of any tort, contract, debt or obligation and shall be subject to the law relating to the enforcement of judgments as if she were a *feme sole* has brought the law upon this matter into line with that in force in England.

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TRUSTS.

Variation of Trusts.

The Court of Appeal in dealing with the application in *Re Downshire Settled Estates*[1] had largely to consider section 57 of the English *Trustee Act* 1925, a provision which does not exist in Queensland, but an argument was also founded on the Court's inherent jurisdiction to order the variation of a trust and on this aspect the Court's remarks are of most

25. [1952] A.C. 716.
1. [1953] Ch. 218.

importance. Counsel for the applicant attacked the principle of *Re New*[2] and *Re Tollemache*[3] that the Court's jurisdiction should be exercised only in an emergency. The Court of Appeal, however, re-stated the principle expounded in *Re Tollemache,* viz., that it was not enough that the proposed variation be advantageous: some circumstances constituting an emergency should be shown to exist. Moreover, the inherent jurisdiction did not extend to sanctioning the remoulding of the nature of the beneficial trusts of a settlement (as was in the instant case provided for). To this last principle there were two exceptions: (1) where by reason for instance of a trust for accumulation the immediate beneficiaries have no fund for their maintenance the Court will assume power to order maintenance in disregard of the trust for accumulation; (2) the Court has jurisdiction to approve compromises involving persons under disability interested or likely to become interested under the trust.

Charitable Trusts.

In *Royal College of Surgeons* v. *National Provincial Bank*[4] the House of Lords reversed the decision of the Court of Appeal and held that the Royal College of Surgeons was a charity even though one of the subsidiary objects of the College was to further the interest of those practising the profession of surgery. The decision may be taken as a firm affirmation of the principle that if the main and dominant object of an institution is charitable it does not matter that it possesses subsidiary objects which are not charitable. The Court of Appeal in fact had recognised this principle; it had merely taken a different view of the relative importance of the objects in this particular case. The consistency of such principle with such decisions as in *Re Strakosch*[5] is perhaps dubious in view of the fact that the institution would be at liberty to apply the whole of the bequest in point to its subsidiary non-charitable purposes.

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2. [1901] 2 Ch. 534.
3. [1903] 1 Ch. 457.
4. [1952] A.C. 631.
5. [1949] Ch. 529.