

Married Women's Property (Amendment) Bill, 1935.

MEMORANDUM.

THE Bill makes it clear that a husband is not liable for wrongs committed by his wife since the marriage.

The Bill restores what has been regarded as the law in this State since the decision of the High Court of Australia in *Brown v. Holloway* (10 C.L.R. 89) in 1909, and displaces the law laid down towards the end of 1924 by the House of Lords in *Edwards v. Porter* ([1925] A.C. 1).

The Bill does not affect the liability of a husband where he takes part with his wife in committing a wrongful act, or where he authorises or ratifies a wrongful act committed by her.

A provision similar to that contained in the Bill has been in force in Victoria since 1908, and is now consolidated in section nineteen of the Victorian Married Women's Property Act, 1915.

J. B. PEDEN,
Commissioner for Law Reform.

10th November, 1925.

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[CONFIDENTIAL.]

(Rough Draft for Consideration Only.)

No. , 1935.

A BILL

To amend the law as to the liability of a husband for torts committed by his wife after marriage; to amend the Married Women's Property Act, 1901; and for purposes connected therewith.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. (1) This Act may be cited as the "Married Women's Property (Amendment) Act, 1935." Short title.

Married Women's Property (Amendment).

(2) The Married Women's Property Act, 1901, as amended by subsequent Acts and this Act may be cited as the Married Women's Property Act, 1901-1935.

Citation of Act No. 45, 1901, as amended.

2. The Married Women's Property Act, 1901, is amended by inserting therein after section nineteen the following new section:—

Amendment of Act No. 45, 1901.

19A. A husband shall not be liable to be sued or to be made a party to any action or legal proceeding brought against his wife in respect of any tort committed by her after the marriage, unless he would be liable to be sued or to be made a party if he were not her husband.

Torts of wife after marriage. Vict. No. 3,727, s. 19.

3. Any alteration of the law by this Act shall not affect any action or proceeding pending at the commencement of this Act.

Saving clause.

