MARRIAGE AND DIVORCE.

(1) Married Women (Restraint upon Anticipation) Act of 1952 ............................................... 1 Eliz. II. No. 36

(2) Matrimonial Causes Acts Amendment Act of 1953 .................................... 1 Eliz. II. No. 55

An Act to Amend the Law relating to the Capacity, Property, and Liabilities of Married Women, and the Liabilities of Husbands, and to render inoperative any Restriction upon Anticipation or Alienation attached to the enjoyment of Property by a Woman.

[Assented to 13th November, 1952.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:

1. (1.) This Act may be cited as "The Married Women (Restraint upon Anticipation) Act of 1952."

(2.) "The Married Women's Property Act, 1890" (as amended by subsequent Acts) and this Act may be collectively cited as "The Married Women's Property Acts, 1890 to 1952."

2. Subject to the provisions of this Act, and subject as respects actions in tort between husband and wife, to the provisions of section fifteen of "The Married Women's Property Act, 1890," a married woman shall—

(a) Be capable of acquiring, holding, and disposing of, any property; and

(b) Be capable of rendering herself, and being rendered, liable in respect of any tort, contract, debt, or obligation; and

(c) Be capable of suing and being sued, either in tort or in contract or otherwise; and

(d) Be subject to the law relating to the enforcement of judgments and orders, in all respects as if she were a feme sole.

* 54 V. No. 9.
3. (1.) Subject to the provisions of this Act all property which—
   (a) Immediately before the passing of this Act was the separate property of a married woman or held for her separate use in equity; or
   (b) Belongs at the time of her marriage to a woman married after the passing of this Act; or
   (c) After the passing of this Act is acquired by or devolves upon a married woman, shall belong to her in all respects as if she were a feme sole and may be disposed of accordingly.

4. (1.) No restriction upon anticipation or alienation attached, or purported to be attached, to the enjoyment of any property by a woman which could not have been attached to the enjoyment of that property by a man shall be of any effect after the passing of this Act.
   (2.) Subsection one of this section shall have effect whatever is the date of the passing, execution or coming into operation of the Act or instrument containing the provision by virtue of which the restriction was attached or purported to be attached.

5. (1.) Nothing in this Act shall—
   (a) During coverture which began before the first day of January, one thousand eight hundred and ninety-one, affect any property to which the title (whether vested or contingent, and whether in possession, reversion, or remainder) of a married woman accrued before that date, except property held for her separate use in equity;
   (b) Enable any judgment or order against a married woman in respect of a contract entered into, or debt or obligation incurred, before the passing of this Act, to be enforced otherwise than against her property.
   (2.) For the avoidance of doubt it is hereby declared that nothing in this Act—
   (a) Renders the husband of a married woman liable in respect of any contract entered into, or debt or obligation incurred, by her after the marriage in respect of which he would not have been liable if this Act had not been passed;
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(b) Exempts the husband of a married woman from liability in respect of any contract entered into, or debt or obligation (not being a debt or obligation arising out of the commission of a tort) incurred, by her after the marriage in respect of which he would have been liable if this Act had not been passed;

(c) Prevents a husband and wife from acquiring, holding, and disposing of, any property jointly or as tenants in common, or from rendering themselves, or being rendered, jointly liable in respect of any tort, contract, debt or obligation, and of suing and being sued either in tort or in contract or otherwise, in like manner as if they were not married;

(d) Prevents the exercise of any joint power given to a husband and wife.

Amendments of 54 Vic. No. 9.

6. *"The Married Women's Property Act, 1890," is amended—

(a) By repealing, in paragraph five of section two thereof all words from and including the words "or interfere" to and including the words "before marriage, and", and by inserting, in lieu of those repealed words, the word "but";

(b) By repealing sections three, four, five, six, and seven thereof;

(c) By repealing in section eight thereof the word "separate" appearing before the word "property" and the words "for her separate use";

(d) By repealing in section nine thereof the word "separate" appearing before the word "property"; by repealing in the said section nine the words "her separate estate" and by inserting, in lieu of those repealed words, the word "she"; and by repealing in the said section nine all words from and including the words "whether the same" to the end thereof;

(e) By repealing in section fifteen thereof the word "separate" appearing before the word "property"; and by repealing in the said

* 54 V. No. 9.
section fifteen the words "as if such property belonged to her as" and by inserting, in lieu of those repealed words, the words "as if she were";

(f) By repealing in section eighteen thereof the words "in respect and to the extent of her separate property" and all words from and including the words "and all sums recovered against her" to the end of the said section eighteen;

(g) By repealing sections nineteen and twenty;

(h) By repealing in section twenty-two thereof the word "separate";

(i) By repealing in section twenty-three thereof the word "separate".

7. *"The Married Women's Property Act, 1897" is Repeal repealed.

8. †"The Settled Land Act of 1886" is amended by repealing paragraph (5) of section twenty-eight thereof.

9. ‡"The Trustees and Executors Act of 1897" is Amendment amended by repealing in subsection one of section forty-four thereof the words "and notwithstanding that the beneficiary is a married woman entitled for her separate use and restrained from anticipation".

10. §"The Matrimonial Causes Jurisdiction Act of 1864," is amended—

(a) By repealing sections fifteen and sixteen thereof and by inserting, in lieu of those repealed sections, the following section:—

"[15.] (1.) In every case of judicial separation—

(a) Any property which is acquired by or devolves upon the wife on or after the date of the decree whilst the separation continues shall, if she dies intestate, devolve as if her husband had been then dead;

* 61 V. No. 2.
† 50 V. No. 13.
‡ 61 V. No. 10.
§ 28 V. No. 29.
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(b) If alimony has been ordered to be paid and has not been duly paid by the husband he shall be liable for necessaries supplied for the use of the wife.

(2.) In any case where the decree for judicial separation is obtained by the wife, any property to which she is entitled for an estate in remainder or reversion at the date of the decree, and any property to which she becomes entitled as executrix, administratrix, or trustee after the date of the decree, shall be deemed to be property to which this section applies.

(b) By repealing in section seventeen thereof the words "a decree for judicial separation or", the words "the sentence of separation or", and the brackets and words "(as the case may be)".


[Reserved: Her Majesty’s Assent Proclaimed 8th January, 1953.]

Be it enacted by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as “The Matrimonial Causes Acts Amendment Act of 1953,” and shall be read as one with *“The Matrimonial Causes Acts, 1864 to 1949,” herein referred to as the Principal Act.

The Principal Act and this Act may collectively be cited as “The Matrimonial Causes Acts, 1864 to 1953.”

* 28 V. No. 29 and amending Acts.