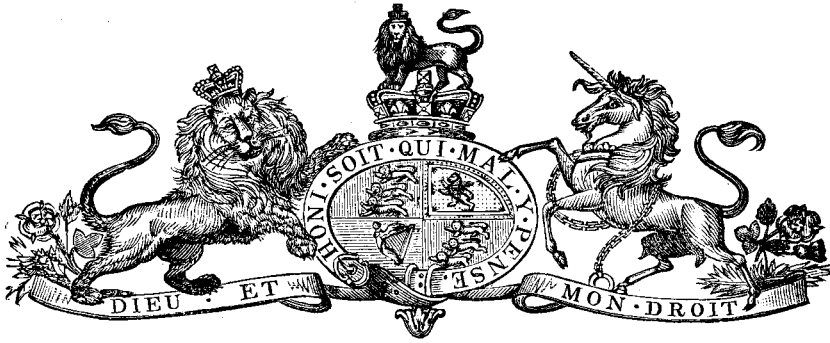


T A S M A N I A



1890.

ANNO QUINQUAGESIMO-QUARTO

VICTORIÆ REGINÆ,

No. 14.



AN ACT to amend "The Married Women's Property Act." [7 November, 1890.] A.D. 1890. —

WHEREAS since the passing of "The Married Women's Property Act" questions arise between a married woman and the creditors of her husband whether real or personal property belongs to such woman or to her husband, and it is desirable to provide a summary procedure for determining such questions: PREAMBLE. 47 Vict. No. 18.

Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

1 This Act may be cited as "The Married Women's Property Act, Short title. 1890."

2 If any question shall arise between a married woman and any judgment creditor of her husband, or the Sheriff or any Bailiff, Trustee, Liquidator, or other person acting on behalf of any creditor of her husband, in respect of the ownership of any real or personal property, it shall be lawful for such judgment creditor, Sheriff, Bailiff, Trustee, Liquidator, or other person as aforesaid, or for such married woman, to apply by summons to a Judge of the Supreme Court of *Tasmania* to have such question determined; and such Judge may make such Order with respect to the property in dispute, and as to the costs of and incidental to the application, as he thinks fit, and may direct any inquiry touching the matters in question to be made in such manner as he thinks fit: Provided always, that any Order of a Judge Disputes as to property may be decided by Judge.

*Married Women's Property.*

A.D. 1890.

made under the provisions of this Section shall be subject to an appeal to the Full Court in as nearly the same manner as may be as an appeal from a decision upon Interpleader proceedings under "The Small Debts Act, 1887;" and that in all cases where the Judge or Court of Appeal shall determine in favour of the married woman, the costs payable to such married woman shall be costs as between solicitor and client.

Onus of proof to lie on married woman.

**3** At the hearing of any application under this Act the onus of proof as to the ownership of any such property in dispute shall rest upon such married woman in all cases where such property has, within Two years before the date of the summons, come into her possession.

Judge may declare gift of property void.

**4** A Judge may on any such application declare any gift or transfer of such property from a husband to a wife made within Two years before the date of the summons in order to defeat or delay his creditors, or which has the effect of defeating or delaying his creditors, to be void.

Money spent within Two years in improving, &c. wife's land to be liable to husband's debts.

**5** Any judgment creditor or other such person as aforesaid may by summons apply to a Judge in any case in which a husband has, within Two years before the date of such summons, erected buildings upon or otherwise improved land of his wife, or has purchased land in her name, or provided money to purchase land in her name or on her behalf, and the Judge may upon hearing such summons fix the value of the land if the same belongs to the wife, and shall ascertain the value of the improvements or the amount expended or paid upon or for such land, and may order the wife to pay the amount so ascertained, or so much thereof as may suffice to satisfy the claim of such creditor or other person; and in case the wife fails to comply with such Order, the Judge, by the same or a subsequent Order, may direct the Sheriff to sell such land, or a sufficient part thereof, and to transfer the same as if he were proceeding under a writ of *Fi. Fa.*, and out of the proceeds arising from such sale the amount so fixed by the Judge as the value of any land belonging to the wife shall be paid to the wife, and the amount so ascertained by the Judge shall be retained by the Sheriff for the person taking out the summons, and the balance shall be paid to the wife; and the costs of the proceedings shall be in the discretion of the Judge.

How evidence to be given.

**6** On any such application evidence may be given either orally or on affidavit, or partly in both such ways, and on any appeal the Full Court may, if it sees fit, allow further evidence to be adduced.

Commissioner at *Launceston* may decide disputes.

**7** The Commissioner in Bankruptcy at *Launceston* shall, in all cases arising within the Northern Electoral Districts, have concurrent powers with a Judge of the Supreme Court, and his decision shall in all cases be subject to a like appeal.

Acts to be read together.

**8** This Act and "The Married Women's Property Act," and every Amendment thereof, shall be read and construed together as one Act.