

MARRIED WOMEN'S PROPERTY.

Ordinance No. 4 of 1889.

[9th March, 1889.]

Be it enacted by the Governor of the Falkland Islands and their Dependencies, with the advice and consent of the Legislative Council thereof, as follows :—

Enacting  
clause.

1. (1) A married woman shall, in accordance with the provisions of this Ordinance, be capable of acquiring, holding, and disposing by will or otherwise, of any real or personal property as her separate property, in the same manner as if she were a *feme-sole*, without the intervention of any trustee.

Married woman  
to be capable of  
holding  
property and  
contracting as  
*feme-sole*.

(2) A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in tort, or otherwise, in all respects as if she were a *feme-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 brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property and not otherwise.

(3) Every contract entered into by a married woman shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary be shown.

(4) Every contract entered into by a married woman with respect to and to bind her separate property shall bind not only the separate property which she is possessed of or entitled to at the date of the contract, but also all separate property which she may thereafter acquire.

(5) Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the Bankruptcy Laws in the same way as if she were a *feme-sole*.

Property of a woman married after the Ordinance to be held by her as a *feme-sole*.

2. Every woman who marries after the commencement of this Ordinance shall be entitled to have and to hold as her separate property, and to dispose of in manner aforesaid 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, in which she is engaged, or which she carries on separately from her husband, or by the exercise of any literary, artistic, or scientific skill.

Loans by wife to husband.

3. Any money or other estate of the wife lent or entrusted by her to her husband for the purpose of any trade or business carried on by him, or otherwise, shall be treated as assets of her husband's estate in case of his bankruptcy, under reservation of the wife's claim to a dividend as a creditor for the amount or value of such money or other estate after, but not before, all claims of the other creditors of the husband for valuable consideration in money or money's worth have been satisfied.

Execution of general power.

4. The execution of a general power by will of a married woman shall have the effect of making the property appointed liable for her debts and other liabilities in the same manner as her separate estate is made liable under this Ordinance.

Property acquired after the Ordinance by a woman married before the Ordinance to be held by her as a *feme-sole*.

5. Every woman married before the commencement of this Ordinance shall be entitled to have and to hold, and to dispose of in manner aforesaid 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 Ordinance, including any wages, earnings, money, and property so gained or acquired by her as aforesaid.

6. All deposits in any savings bank, or in any other bank, all annuities by any person, and all sums forming part of any stocks or funds, which at the commencement of this Ordinance are standing in the sole name of a married woman, and all shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, or public body, municipal, commercial, or otherwise, or of or in any industrial, provident, friendly, benefit, building, or loan society, which at the commencement of this Ordinance are standing in her name, shall be deemed, unless and until the contrary be shown, to be the separate property of such married woman : and the fact that any such deposit, annuity, sum forming part of stocks or funds, share, stock, debenture, debenture stock, or other interest as aforesaid, is standing in the sole name of a married woman, shall be sufficient *prima facie* evidence that she is beneficially entitled thereto for her separate use, so as to authorise and empower her to receive or transfer the same, and to receive the dividends, interest, and profits thereof, without the concurrence of her husband, and to indemnify all directors, managers, and trustees of every such bank, corporation, company, public body, or society as aforesaid, in respect thereof.

7. All shares, stock, debentures, debenture stock, and other interests of or in any corporation, company, public body, or society as aforesaid, which after the commencement of this Ordinance shall be allotted to or placed, registered, or transferred in or into or made to stand in the sole name of any married woman shall be deemed, unless and until the contrary be shown, to be her separate property, in respect of which so far as any liability may be incident thereto her separate estate shall alone be liable, 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 :

As to stock,  
etc., to be  
transferred,  
etc., to a  
married  
woman.

Provided always, that nothing in this Ordinance shall require or authorise any corporation or joint stock company to admit any married woman to be a holder of any shares or stock therein to which any

liability may be incident, contrary to the provisions of any Ordinance, charter, by-law, articles of association or deed of settlement regulating such corporation or company.

Investments in joint names of married women and others.

8. All the provisions hereinbefore contained as to deposits in any savings bank, or in any other bank, shares, stock, debentures, debenture stock, or other interests of or in any corporation, company, public body, or society as aforesaid respectively, which at the commencement of this Ordinance shall be standing in the sole name of a married woman, or which, after that time, shall be allotted to, or placed, registered, or transferred to or into, or made to stand in, the sole name of a married woman, shall respectively extend and apply, so far as relates to estate, right, title, or interest of the married woman, to any of the particulars aforesaid which, at the commencement of this Ordinance, or at any time afterwards, shall be standing in, or shall be allotted to, placed, registered, or transferred to or into, or made to stand in, the name of any married woman jointly with any person or persons other than her husband.

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

9. It shall not be necessary for the husband of any married woman, in respect of her interest, to join in the transfer of any deposit as aforesaid, or any share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest of or in any corporation, company, public body, or society as aforesaid, which is now or shall at any time hereafter be standing in the sole name of any married woman, or in the joint names of such married woman and any person or persons not being her husband.

Fraudulent investments with money of husband.

10. If any investment in any such deposit as aforesaid or in any share, stock, debenture, or debenture stock of any corporation, company, or public body, municipal, commercial, or otherwise, or in any share, debenture, benefit, right, or claim whatsoever, in, to, or upon the funds of any industrial, provident, friendly, benefit, building, or loan society, shall have been made by a married woman by means of moneys of her husband, without his consent, the Court may, upon an application under Section 17 of this



Ordinance, order such investment, and the dividends thereof, or any part thereof, to be transferred and paid respectively to the husband; and nothing in this Ordinance contained shall give validity as against creditors of the husband to any gift, by a husband to his wife, of any property, which, after such gift, shall continue to be in the order and disposition or reputed ownership of the husband, or to any deposit or other investment of moneys of the husband made by or in the name of his wife in fraud of his creditors; but any moneys so deposited or invested may be followed as if this Ordinance had not passed.

11. A married woman may by virtue of the power of making contracts hereinbefore contained effect a policy upon her own life or the life of her husband for her separate use; and the same and all benefit thereof shall enure accordingly.

Moneys payable under policy of assurance not to form part of estate of insured.

A policy of assurance effected by any man on his own life, and expressed to be for the benefit of his wife, or of his children, or of his wife and children, or any of them, or by any woman on her own life, and expressed to be for the benefit of her husband, or of her children, or of her husband and children, or any of them, shall create a trust in favour of the objects therein named, and the moneys payable under any such policy shall not, so long as any object of the trust remains unperformed, form part of the estate of the insured, or be subject to his or her debts :

Provided, that if it shall be proved that the policy was effected and the premiums paid with intent to defraud the creditors of the insured, they shall be entitled to receive, out of the moneys payable under the policy, a sum equal to the premiums so paid. The receipt of a trustee or trustees duly appointed, or, in default of any such appointment, or in default of notice to the insurance office, the receipt of the legal representative of the insured shall be a discharge to the office for the sum secured by the policy, or for the value thereof, in whole or in part.

12. Every woman, whether married before or after this Ordinance, shall have in her own name against all persons whomsoever, including her

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

husband, the same civil remedies, and also (subject as regards her husband, to the proviso hereinafter contained) the same remedies and redress by way of criminal proceedings, for the protection and security of her own separate property, as if such property belonged to her as a *feme-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 under this section it shall be sufficient to allege such property to be her property; and in any proceeding under this section a husband or wife shall be competent to give evidence against each other, any statute or rule of law to the contrary notwithstanding:

Provided always, that no criminal proceeding shall be taken by any wife against her husband by virtue of this Ordinance while they are living together, as to or concerning any property claimed by her, nor while they are living apart, as to or concerning any act done by the husband while they were living together, concerning property claimed by the wife, unless such property shall have been wrongfully taken by the husband when leaving or deserting, or about to leave or desert, his wife.

Wife's ante-nuptial debts and liabilities.

13. A woman after marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted, and all contracts entered into or wrongs committed by her before marriage, including any sums for which she may be liable as a contributory, either before or after she has been placed on the list of contributories and by virtue of the Acts and Ordinances relating to joint stock companies; and she may be sued for any such debt and for any liability in damages or otherwise under any such contract, or in respect of any such wrong; and all sums recovered against her in respect thereof, or for any costs relating thereto, shall be payable out of her separate property; and, as between her and her husband, unless there be any contract between them to the contrary, her separate property shall be deemed to be primarily liable for all such debts, contracts, or wrongs, and for all damages or costs recovered in respect thereof:

Provided always that nothing in this Ordinance shall operate to increase or diminish the liability of any woman married before the commencement of this Ordinance for any such debt, contract, or wrong, as aforesaid, except as to any separate property to which she may become entitled by virtue of this Ordinance, and to which she would not have been entitled for her separate use if this Ordinance had not passed.

14. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage, including any liabilities to which she may be so subject under the Acts and Ordinances relating to joint stock companies as aforesaid, to the extent of all property whatsoever belonging to his wife which he shall have acquired or become entitled to from or through his wife, after deducting therefrom any payments made by him, and any sums for which judgment may have been *bona-fide* recovered against him in any proceeding at law, in respect of any such debts, contracts, or wrongs for or in respect of which his wife was liable before her marriage as aforesaid; 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 :

Husband liable for his wife's debts contracted before marriage to a certain extent.

Provided always that nothing in this Ordinance contained shall operate to increase or diminish the liability of any husband before the commencement of this Ordinance for or in respect of any such debt or other liability of his wife as aforesaid.

15. A husband and wife may be jointly sued in respect of any such debt or other liability (whether by contract or for any wrong) contracted or incurred by the wife before marriage as aforesaid, if the plaintiff in the action shall seek to establish his claim, either wholly or in part, against both of them; and if in any such action, or in any action brought in respect of any such debt or liability against the husband alone, it is not found that the husband is liable in respect of any property of the wife so

Suits for antenuptial liabilities.

acquired by him or to which he shall have become entitled as aforesaid, he shall have judgment for his costs of defence, whatever may be the result of the action against the wife if jointly sued with him; and in any such action against husband and wife jointly if it appears that the husband is liable for the debt or damages recovered, or any part thereof, the judgment to the extent of the amount for which the husband is liable shall be a joint judgment against the husband personally and against the wife as to her separate property; and as to the residue, if any, of such debt and damages, the judgment shall be a separate judgment against the wife as to her separate property only.

Act of wife  
liable to  
criminal  
proceedings.

16. A wife doing any act with respect to any property of her husband, which, if done by the husband with respect to property of the wife, would make the husband liable to criminal proceedings by the wife under this Ordinance, shall in like manner be liable to criminal proceedings by her husband.

Questions  
between  
husband and  
wife as to  
property to be  
decided in a  
summary way.

17. In any question between husband and wife as to the title to or possession of property, either party, or any such bank, corporation, company, public body, or society as aforesaid in whose books any stocks, funds, or shares of either party are standing, may apply by summons or otherwise in a summary way to the judge of the Supreme Court, and the judge of the Supreme Court may make such order with respect to the property in dispute, and as to the costs of and consequent on the application as he thinks 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 the judge of the Supreme Court, if either party so require, may hear any such application in his private room:

Provided also that any such bank, corporation, company, public body, or society as aforesaid, shall, in the matter of any such application for the purposes of costs or otherwise, be treated as a stakeholder only.

Married woman:  
as an executrix  
or trustee.

18. A married woman who is an executrix or administratrix alone or jointly with any other person

or persons of the estate of any deceased person, or a trustee alone or jointly as aforesaid of property subject to any trust, may sue or be sued, and may transfer or join in transferring any such annuity or deposit as aforesaid, or any sum forming part of any stocks or funds transferable as aforesaid, or any share, stock, debenture, debenture stock, or other benefit, right, claim, or other interest of or in any such corporation, company, public body, or society in that character, without her husband, as if she were a *feme-sole*.

19. Nothing in this Ordinance contained shall interfere with or affect any settlement or agreement for a 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 to or be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will, or other instrument; but no 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 against creditors of such 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 to make future settlements.

20. A married woman having separate property shall be subject to all such liability for the maintenance of her children and grandchildren as the husband is now by law subject to for the maintenance of her children and grandchildren:

Married woman to be liable for the maintenance of her children.

Provided always, that nothing in this Ordinance shall relieve her husband from any liability imposed upon him by law to maintain her children and grandchildren.

21. For the purposes of this Ordinance the legal representative of any married woman shall in

Legal representative of married woman.

respect of her separate estate have the same rights and liabilities and be subject to the same jurisdiction as she would be if she were living.

Interpretation  
of terms.

22. The word "contract" in this Ordinance shall include the acceptance of any trust, or of the office of executrix or administratrix, and the provisions of this Ordinance as to liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by any married woman being a trustee or executrix or administratrix either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration. The word "property" in this Ordinance includes a thing in action.

Short title.

23. This Ordinance may be cited as "The Married Women's Property Ordinance, 1889."

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### **TOBACCO LICENCES.**

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#### **Ordinance No. 10 of 1889.**

[18th May, 1889.]

Enacting  
clause.

Be it enacted by the Governor of the Falkland Islands and their Dependencies, with the advice and consent of the Legislative Council thereof, as follows:—

No person to  
sell tobacco  
without  
licence.

1. It shall not be lawful for any person, company, or mercantile firm, to sell tobacco, cigars, or cigarettes, unless such person or persons shall have received a licence from the Colonial Treasurer authorising him to do so.

Colonial  
Treasurer may  
grant licences.

2. It shall be lawful for the Colonial Treasurer to grant licences for the sale of tobacco, cigars, and cigarettes, in the town of Stanley, or anywhere within fifteen miles thereof, by sea or land, on payment to him of the sum of two pounds for every such licence. Any person or persons not being licensed