

Bill No. 61 of 1936.

A BILL RELATING TO THE CAPACITY, PROPERTY
AND LIABILITIES OF MARRIED WOMEN.

NOTE.

This Bill re-enacts the provisions of *The Married Women's Act* with greater particularity, expressly enables a married woman to sue without joining her husband as a co-plaintiff, and contains a new provision (section 7) which relieves a husband of liability for his wife's torts merely because he is a husband, which is in conformity to the law as declared by the Supreme Court of Alberta in *Quinn v. Beales* (20 Alta. L. R. 620 (1924) 3 W. W. R. 337).

R. ANDREW SMITH,
Legislative Counsel.

(This note does not form any part of the Bill and is offered merely as a partial explanation of some of its provisions.)

BILL

No. 61 of 1936.

An Act relating to the Capacity, Property and Liabilities of Married Women.

(Assented to _____, 1936.)

HIS MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Alberta, enacts as follows:

1. This Act may be cited as "*The Married Women's Act, 1936.*"

2. Subject to the provisions of this Act 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, without her husband being joined as a party, of suing and being sued, either in contract, including a contract made between her and her husband, or in tort or otherwise; and
- (d) be subject to the law relating to bankruptcy and to the enforcement of judgments and orders,

in all respects as if she were a feme sole.

3. Every married woman shall have in her own name and without joining her husband as a co-plaintiff the same civil remedies against all persons whomsoever, including her husband, for the protection and security of her own separate property as if she were a feme sole, but except as aforesaid no husband or wife shall be entitled to sue the other for a tort.

4. A married woman shall be capable of acquiring, holding, disposing of or otherwise dealing with every kind and description of real and personal property and of contracting, suing and being sued in any form of action or proceeding as if she were an unmarried woman.

5. A husband shall not have any right to sue in respect of a tort done by his wife except where and in so far as he has sustained any separate damage or injury thereby.

6. 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:

Provided that nothing in this section shall interfere with or render inoperative any restriction upon anticipation or alienation attached to the enjoyment of any such property.

7. Subject to the provisions of this Act, the husband of a married woman shall not, by reason only of his being her husband, be liable,—

(a) in respect of any tort committed by her whether before or after the marriage or in respect of any contract entered into or debt or obligation incurred by her before the marriage; or

(b) to be sued or made a party to any legal proceeding brought in respect of any such tort, contract, debt or obligation.

8. 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;

(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.

9. *The Married Women's Act*, being chapter 214 of the Revised Statutes of Alberta, 1922, is hereby repealed.

10. This Act shall come into force on the day upon which it is assented to.

No. 61.

FIRST SESSION
EIGHTH LEGISLATURE
1 EDWARD VIII
1936

BILL

An Act relating to the Capacity,
Property and Liabilities of
Married Women.

Received and read the

First time

Second time

Third time

HON. MR. HUGILL.

EDMONTON:
A. Shnitka, King's Printer
1936