

179), to make the Act one for relief of husbands, and not an Act affecting the property of married women. In that case the Court held that the Act did not relieve the husband from his old liability to be sued jointly with his wife in respect of his wife's torts, although the plaintiff might, at his own option, sue the wife alone, and obtain judgment against her and have execution issued against her separate property. If she has no such separate property, the plaintiff may still sue the husband as a co-defendant.

The case of *Seroka v. Kattenberg*, *supra.*, was decided by Mr. Justice Mathew and Mr. Justice A. L. Smith. The decision was in effect confirmed by the Court of Appeal in *Earle v. Kingscote* (83 L.T. Rep. 577 (1900) 2 Ch. 585). The same point was raised and dealt with again before the Court of Appeal in the case of *Beaumont v. Kaye* (90 L.T. Rep. 51; (1904) 1 K.B. 292) in, however, a somewhat less direct manner, the exact question in the latter case being on a point of pleading. And these three cases may be regarded as the standing authorities for the proposition that a husband is still liable, jointly with his wife, for torts committed by her during coverture.

We ought here to notice that the proposition thus laid down by the three last-mentioned cases was very severely criticised by Mr. Justice Fletcher Moulton in the more recent case of *Cuenod v. Leslie* (100 L.T. Rep. 675; (1909) 1 K.B. 880, at p. 889). That learned Lord Justice expressed the opinion that it was most desirable that the matter should be reviewed by the House of Lords, because, in his lordship's view, the present state of things is highly anomalous. "I cannot believe," said his Lordship, "that the Married Women's Property Act, 1882, which drew such a clear line of separation between the husband's and the wife's property and liabilities and arranged them in other respects so fairly on the lines of separate personal responsibility, could have intended to leave such a blot on the legislation as would follow from permitting a plaintiff to recover damages from a husband in respect of torts of the wife, either before or after coverture, although he was not liable for the torts or any participation in them, and was not needed as a party to the action."