

L. T. Rep. N. S. 430; 28 Chy. D. 709. But now, according to Mr. Justice Kay, in *Re Jupp, Jupp v. Blackwell*, 59 L. T. Rep. N. S. 129, "the Act shows no intention of altering her legal position in respect of property, except altering her right to property as between herself and her husband." In support of this view, the learned judge referred to the remarks of Lord Justice Cotton in *Re March*, 51 L. T. Rep. N. S. 380, 382; 27 Chy. D. 166. In *Downe v. Fletcher and Wife*, 59 L. T. Rep. N. S. 181; 21 Q. B. D. 11, it was held by the Lord Chief Justice and Mr. Justice Mathew that, in an action against husband and wife to recover a debt contracted by the wife before marriage, where the marriage had taken place between the passing of the Married Women's Property Acts of 1870 and 1874, judgment could be entered against the wife, to be recovered out of separate estate, etc., without proof of existence of separate estate at the time of judgment. "The common law position of the wife," said Mr. Justice Mathew, "as regards contracts entered into before coverture has not been altered by the Legislature." In *Re Roper, Roper v. Doncaster*, 59 L. T. Rep. N. S. 202, Mr. Justice Kay held (p. 206) that sec. 1 (4) of the Act only applied to contracts made after the passing of the Act, and expressed an opinion that in cases falling within the Act, "to make property appointed by the will of a married woman liable to her engagements under that Act, it seems necessary to hold that the appointment by her will makes the property appointed her separate property" (p. 208). But, in the judgment, his Lordship does not appear to refer to sec. 4 of the Act. Among the difficulties of the Act not the least is sec. 19, relating to marriage settlements, and excluding (subject to a proviso in favour of ante-nuptial creditors) marriage settlements from being affected by the Act. In *Re Armstrong, Ex parte Boyd*, 21 Q. B. D. 264, which was a case on this section, Lord Eshe. said: "It would not be right to suppose that the Legislature, when they passed this Act, did not understand it, but unquestionably its construction by the court presents the most serious difficulties." No doubt the Act is not a simple one, but we cannot help thinking the difficulties have been partly occasioned by the restrictive interpretations placed upon it by the court. In the above case, however, the majority of the Court of Appeal decided (contrary to the judgment of Lord Eshe.) that when real property was vested in a trustee for a married woman for life for her separate use, and she carried on a trade separately from her husband, the Act was effectual to carry over the life estate to the trustee in bankruptcy. Of course there was no restraint on anticipation. The Lords Justices Lindley and Lopes held that the trustee was claiming under, and not in derogation of the settlement. Also in *Re Onslow's Settlement, Plowden v. Gayford*, 59 L. T. Rep. N. S. 308, the Act was held to have effect on property comprised in a settlement notwithstanding sec. 19. In *Otway v. Otway*, 59 L. T. Rep. N. S. 159, 13 P. D. 141, a doubt was raised as to whether the practice in the Divorce Court as to costs of an adulterous wife should be varied in consequence of the Married Women's Property Act. It will be seen that of the recent cases *Jupp v. Blackwell* gives the least, and *Re Armstrong* or *Re Onslow* the widest, effect to the Act. When will the Legislature undertake its revision?—*Law Times*.