Conjugal Rights (Scotland) Amendment Act 1861

1861 CHAPTER 86

16 When a married Woman succeeds to Property, &c., Husband or Creditor not entitled to claim the same.

When a married Woman succeeds to Property, or acquires Right to it by Donation, Bequest, or any other Means than by the Exercise of her own Industry, the Husband or his Creditors, or any other Person claiming under or through him, shall not be entitled to claim the same as falling within the Communio bonorum, or under the Jus mariti or Husband's Right of Administration, except on the Condition of making therefrom a reasonable Provision for the Support and Maintenance of the Wife, if a Claim therefor be made on her Behalf; and in the event of Dispute as to the Amount of the Provision to be made, the Matter shall, in an ordinary Action, be determined by the Court of Session according to the Circumstances of each Case, and with reference to any Provisions previously secured in favour of the Wife, and any other Property belonging to her exempt from the Jus mariti: Provided always, that no Claim for such Provision shall be competent to the Wife if before it be made by her the Husband or his Assignee or Disponee shall have obtained complete and lawful Possession of the Property, or, in the Case of a Creditor of the Husband, where he has before such Claim is made by the Wife attached the Property by Decree of Adjudication or Arrestment, and followed up the said Arrestment by obtaining thereon Decree of Furthcoming, or has poinded and carried through and reported a Sale thereof.