

Married Woman Separately Sued - - - Married Woman's Separate Property.

SUBJECT TO LOCAL AUTHORITIES.] § 4. Every grant to any such company of a right to use any street, alley, road, highway or public ground, shall be subject to the right of the proper authorities to control the use, improvement and repair of such street, alley, road, highway or public ground, to the same extent as if no such grant had been made, and to make all necessary police regulations concerning the management and operation of such railroad, whether such right is reserved in the grant or not.

HUSBAND AND WIFE.

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| <ul style="list-style-type: none"> § 1. <i>Married Woman Separately Sued.</i> § 2. <i>Sued Together, Either Defend.</i> § 3. <i>Husband or Wife Deserted.</i> § 4. <i>Civil Injuries, Wife's Liability.</i> § 5. <i>Separate Debts.</i> § 6. <i>Contracts of the Wife.</i> § 7. <i>Married Woman's Earnings.</i> § 8. <i>Services Rendered Each Other.</i> § 9. <i>Married Woman's Separate Property. Transfers Between.</i> § 10. <i>May Sue Each Other.</i> | <ul style="list-style-type: none"> § 11. <i>Abandonment, Imprisonment.</i> § 12. <i>Contracts Binding.</i> § 13. <i>Decree Set Aside.</i> § 14. <i>Attorney for Each Other.</i> § 15. <i>Family Expenses.</i> § 16. <i>Homestead, Minor Children.</i> § 17. <i>Insanity of Either.</i> § 18. <i>Petition for Guardian.</i> § 19. <i>Prayer of Granted.</i> § 20. <i>Security Required.</i> § 21. <i>Dower, Curtesy, etc., Conveyed.</i> |
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*An act to Revise the law in relation to Husband and Wife. Approved 30th March 1874.
In force 1 July 1874.*

MARRIED WOMAN SEPARATELY SUED.] § 1. A married woman may in all cases, sue and be sued without joining her husband with her, to the same extent as if she were unmarried, and an attachment or judgment in such action may be enforced by or against her, as if she were a single woman.

SUED TOGETHER, EITHER DEFEND.] § 2. If husband and wife are sued together, the wife may defend for her own right, and if either neglect to defend, the other may defend for such one also.

HUSBAND OR WIFE DESERTED.] § 3. When the husband has deserted his family, the wife may prosecute or defend, in his name, any action which he might have prosecuted or defended, and under like circumstances, the same right shall apply to the husband upon the desertion of the wife.

CIVIL INJURIES, WIFE'S LIABILITY.] § 4. For all civil injuries committed by a married woman, damages may be recovered from her alone, and her husband shall not be responsible therefor, except in cases where he would be jointly responsible with her if the marriage did not exist.

SEPARATE DEBTS.] § 5. Neither husband or wife shall be liable for the debts or liabilities of the other incurred before marriage, and, except as herein otherwise provided, they shall not be liable for the separate debts of each other, nor shall the wages, earnings or property of either, nor the rent or income of such property, be liable for the separate debts of the other.

CONTRACTS OF THE WIFE.] § 6. Contracts may be made and liabilities incurred by a wife, and the same enforced against her, to the same extent and in the same manner as if she were unmarried; but, except with the consent of her husband she may not enter into or carry on any partnership business, unless her husband has abandoned or deserted her, or is idiotic or insane, or is confined in the penitentiary.

MARRIED WOMAN'S EARNINGS.] § 7. A married woman may receive, use and possess her own earnings, and sue for the same in her own name, free from the interference of her husband or his creditors.

SERVICES RENDERED EACH OTHER.] § 8. Neither husband or wife shall be entitled to recover any compensation for any labor performed or services rendered for the other, whether in the management of property or otherwise.

MARRIED WOMAN'S SEPARATE PROPERTY.] § 9. A married woman may own, in her own right, real and personal property obtained by descent, gift or purchase, and

Transfers Between Each Other - - - Insanity of Either.

manage, sell and convey the same, to the same extent and in the same manner that the husband can property belonging to him :

TRANSFERS BETWEEN.] *Provided*, that where husband and wife shall be living together, no transfer or conveyance of goods and chattels between such husband and wife shall be valid as against the rights and interests of any third person, unless such transfer or conveyance be in writing, and be acknowledged and recorded in the same manner as chattel mortgages are required to be acknowledged and recorded by the laws of this state, in cases where the possession of the property is to remain with the mortgagor.

MAY SUE EACH OTHER.] § 10. Should either the husband or wife unlawfully obtain or retain possession or control of property belonging to the other either before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

ABANDONMENT: IMPRISONMENT.] § 11. In case the husband or wife abandons the other, and leaves the state and is absent therefrom for one year without providing for the maintenance and support of his or her family, or is imprisoned in the penitentiary; any court of record in the county where the husband or wife so abandoned or not confined resides, may on application by petition, setting forth fully the facts, if the court is satisfied of the necessity, by the evidence, authorize him or her to manage, control sell and incumber the property of the other, as shall be necessary in the judgment of the court for the support and maintenance of the family and for the purpose of paying debts of the other, or debts contracted for the support of the family. Notice of such proceedings shall be given as in ordinary actions, and anything done under or by virtue of the order or decree of the court, shall be valid to the same extent as if the same were done by the party owning the property.

CONTRACTS BINDING.] § 12. All contracts, sales or incumbrances made by either the husband or wife by virtue of the power contemplated in the preceding section shall be binding on both, and during such absence or confinement, the person acting under such power may sue and be sued thereon, and for all acts done, the property of both shall be liable, and execution may be levied or attachment issued accordingly. No suit or proceeding shall abate or be in any wise affected by the return or release of the person absent or confined, but he or she shall be permitted to prosecute or defend jointly with the other.

DECREE SET ASIDE.] § 13. The husband or wife affected by the proceedings contemplated in the two preceding sections may have the order or decree of the court set aside or annulled by filing a petition therefor and serving a notice on the person in whose favor the same was granted, as in ordinary actions. But the setting aside of such decree or order shall in no wise affect any act done thereunder.

ATTORNEY FOR EACH OTHER.] § 14. A husband or wife may constitute the other his or her attorney in fact, to control and dispose of his or her property for their mutual benefit, or otherwise, and may revoke the same to the same extent and in the same manner as other persons.

FAMILY EXPENSES.] § 15. The expenses of the family and of the education of the children shall be chargeable upon the property of both husband and wife, or of either of them, in favor of creditors therefor and in relation thereto, they may be sued jointly or separately.

HOMESTEAD: MINOR CHILDREN.] § 16. Neither the husband nor wife can remove the other or their children from their homestead without the consent of the other unless the owner of the property shall, in good faith, provide another homestead suitable to the condition in life of the family; and if he abandons her, she is entitled to the custody of their minor children, unless a court of competent jurisdiction, upon application for that purpose, shall otherwise direct.

INSANITY OF EITHER.] § 17. When the husband or wife is insane, and shall have been insane continuously, for a period of not less than one year, and therefore incapable of executing a deed or mortgage, and relinquishing or conveying his or her right to curtesy, dower or homestead, in the real property of the other, the same person may present his or her petition to any court having general chancery jurisdiction in the county where such petitioner resides, or where the real estate to be affected is situated, setting forth the facts and particularly describing the real estate sought to be conveyed or mort-

Petition for Guardian - - - Dower, Curtesy, etc., Conveyed.

gaged and praying for an order authorizing the applicant or some other person to execute a deed of conveyance or mortgage for such insane person and thereby relinquish his or her right of curtesy, dower or homestead in said real estate.

PETITION FOR GUARDIAN.] § 18. The petition shall be verified by the oath of the petitioner and shall be filed in the office of the clerk of the proper court. Notice of the filing of such petition shall be given to such insane person as is required to be given to defendants in chancery, by service of summons or by publication. The court shall appoint some discreet person, or attorney, guardian for the person alleged to be insane, who shall ascertain as to the propriety, good faith and necessity of the petition, and shall have power to resist such application, and subpoena witnesses and take depositions to disprove any of the matters in the petition, or show the impropriety of granting the same.

PRAYER GRANTED.] § 19. If the court is satisfied, upon the hearing, that the petition was made in good faith and the prayer thereof ought to be granted, then the court shall enter a decree granting such prayer and authorizing some discreet and proper person to make, execute, acknowledge and deliver jointly with said petitioner, all such conveyances or mortgages, and of such parcels of land as shall in said decree be specified.

SECURITY REQUIRED.] § 20. The court shall require of the petitioner, at the time, and as one of the conditions of granting said decree, such security for the protection of the interests, and for the proper support of such insane person, as the court shall deem satisfactory, and may from time to time renew or change the same, or require additional security. Such security shall be deposited with the clerk of the court, and suits may be maintained thereon for the benefit of such insane person in any court of competent jurisdiction; or, the court shall order such portion of the money received from the sale of such property as the court shall deem equitable and just, to be set apart in such manner as the court shall direct for the use and benefit of such insane person, and such sum so set apart shall be and remain subject to the control and order of the court.

DOWER, CURTESY,¹ ETC., CONVEYED.] § 21. All deeds of conveyance or mortgages authorized by and executed under the order of any court, made as hereinbefore provided, shall be valid in law and equity, and shall convey all the curtesy, dower or homestead interest of such insane person in and to the real estate so conveyed or mortgaged, as fully as if such person had been sane, and executed and acknowledged the same in due form of law.

IDIOTS, LUNATICS, DRUNKARDS AND SPENDTHRIFTS.

- § 1. *Conservator, when Appointed.*
- § 2. *Application Filed, Person Summoned.*
- § 3. *Bond of Conservator.*
- § 4. *Suit on Bond.*
- § 5. *Care of Estate, Children.*
- § 6. *Sworn Inventory.*
- § 7. *Its Character.*
- § 8. *Settle Every Year.*
- § 9. *Trust Expired.*
- § 10. *Final Settlement.*
- § 11. *Accounts and Demands.*
- § 12. *Contracts Performed.*
- § 13. *Represent his Ward.*
- § 14. *Contracts after Verdict.*
- § 15. *After Application.*
- § 16. *Swindling.*
- § 17. *Income and Profits Applied.*
- § 18. *Money at Interest.*
- § 19. *Lease Real Estate.*
- § 20. *Mortgage Real Estate.*

- § 21. *Mortgaging Authorized.*
- § 22. *Foreclosure, Redemption.*
- § 23. *Sale of Real Estate.*
- § 24. *The Petition.*
- § 25. *Notice, Intended Application.*
- § 26. *Docketed, Hearing, Practice.*
- § 27. *Notice, Terms of Sale.*
- § 28. *Report of Sale.*
- § 29. *Money and Securities Returned.*
- § 30. *Additional Security.*
- § 31. *Counter Security, to Sureties.*
- § 32. *Conservator Removed.*
- § 33. *Summoned to show Cause.*
- § 34. *Resignation.*
- § 35. *Another Appointed.*
- § 36. *Fees and Compensation.*
- § 37. *Ward Restored.*
Conservator Removed.
- § 38. *Notice, Intended Application.*
- § 39. *Tried by a Jury.*

¹ The estate of Curtesy abolished. See DOWER, § 1.