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Married Women - The Husband's Right to His Wife's Services and to Her Earnings

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MARRIED WOMEN—HUSBAND'S RIGHT TO WIFE'S SERVICES AND TO HER EARNINGS.—A Michigan statute passed in 1911 (LAWS OF 1911, ch. 196; COMP. LAWS 1915, § 11478) provided that a married woman should be "entitled to * * * earnings acquired * ** * as the result of her personal efforts." A married woman, before 1911, had worked as housekeeper for X and had continued to work for him after 1911; on his death she filed a claim against his estate for her services during the whole period. *Held*, she could not recover for the period before 1911, as her services and earnings prior to that date belonged to her husband. *In re Mayer's Estate* (1920), 210 Mich. 188, 177 N. W. 488.

Plaintiff and her husband were working on a farm belonging to defendant. Plaintiff did the house work, made butter, and took care of the chickens. She sued defendant for the value of her services after the passage of the Act of 1911. *Held*, that her services were rendered as a member of her husband's family, in her husband's home, and were the ordinary services

a farmer's wife renders in his own home. As the Act of 1911 refers not to such services but to earnings in a separate business carried on by her, or to services performed by her for others than her husband, she can therefore not recover. *Sorensen* v. *Sorensen* (1920), 211 Mich. 429, 179 N. W. 256.

The husband's right to his wife's earnings, unquestioned at common law (*Prescott* v. *Brown*, 23 Me. 305), has been abolished by statute in most states. The Michigan statute cited above was enacted soon after the decision in *Root* v. *Root*, 164 Mich. 638, which followed the common law rule. Differences in the phrasing of the various statutes have led to some contrariety of decision, but generally the distinction is made, as in the two principal cases, between earnings and services; the former belong to the wife, the latter to the husband. The question is usually presented in two types of cases: first, in cases of personal injury to the wife, where it must be decided whether the wife or the husband is entitled to recover for the wife's inability to work; second, in cases where the husband has conveyed property to the wife, in payment for her services, and his creditors attack the conveyance as voluntary and fraudulent. The wife was held entitled, under such statutes, to recover for her loss of ability to work, in *Millmore* v. *Boston Elev. Co.*, 198 Mass. 370 (whether she had ever worked or not); *Green* v. *Muskegon &c. Co.*, 171 Mich. 18 (where she ran a boarding-house); and *Texas & P. Ry. Co.* v. *Humble*, 181 U. S. 57. And it is generally held, under such circumstances, that the husband cannot recover for the loss of the wife's earnings outside the home, but that he may recover for the loss of her services in the home; this distinction was made in *Riley* v. *Lidtke*, 49 Neb. 139; *Gregory* v. *Oakland, &c., Co.*, 181 Mich. 101; and *Blair* v. *Seitner, &c., Co.*, 184 Mich. 304. But it is sometimes held that if the wife is working for the husband, even though outside the home (as, for instance, helping him in his business), he may recover for the loss of such services. *Standen* v. *Penna. R. Co.*, 214 Pa. St. 189; *Georgia, &c., Co.* v. *Tice*, 124 Ga. 459. In cases of the second class—fraudulent conveyances—it has generally appeared that the wife's industry was pretty clearly in the nature of services, and conveyances based thereon have been set aside as voluntary. *Coleman* v *Barr*, 93 N. Y. 17; *Dempster Mill Co.* v. *Bundy*, 64 Kans. 444; *Milkman* v. *Arthe*, 221 Fed. 134, commented on in 14 MICH. L. REV. 62. And the same result was reached in a recent case in Michigan, even though the wife's work was done in connection with the husband's business and a part of it was done after the passage of the 1911 statute. *Henze* v. *Rogatsky*, 199 Mich. 558. On the other hand, many cases uphold conveyances made under similar circumstances. *Carse* v. *Reticker*, 95 Iowa 25; *McNaught* v. *Anderson*, 78 Ga. 499; *Ford Lumber Co.* v. *Curd*, 150 Ky. 738. E. H.