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UNITED STATES DEPARTMENT OF LABOR

MAURICE J. TOBIN, Secretary

WOMEN'S BUREAU

FRIEDA S. MILLER, Director

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The Legal Status of Women in the United States of America

January 1, 1948

REPORT FOR

TENNESSEE

*Individual State material, constituting part of a
compilation to show the present legal status of
women in the United States of America*



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The Legal Status of Women in the
United States of America

1938

THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

In response to continuing domestic and international needs, the Women's Bureau has prepared a revised edition of its 1938 report on the legal status of women in the United States of America.

The revised report is based on an examination of the Constitutions, official statutes, and significant decisions of courts of last resort of the Federal Government and the several States, as well as pertinent law texts of recognized authority.

This pamphlet presents a digest of the material compiled for a single State, which has been incorporated in the complete report.

LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
WOMEN'S BUREAU,
Washington, December 14, 1948.

SIR: I have the honor to transmit to you a revised report on the legal status of women in Tennessee. This is one of 54 separate reports constituting a survey of the laws of the 48 States, the District of Columbia, the territories of Alaska, Hawaii, and Puerto Rico, and the United States possessions, the Canal Zone and Virgin Islands.

The original report for each jurisdiction represents a thorough search of statutes and decisions of appellate courts construing its statutes or establishing its judicial policy. Revision covers important changes by legislative action.

The study was made by Sara Louise Buchanan, Attorney on the Women's Bureau staff, member of the bars of the Supreme Court of the United States and of the Mississippi Supreme Court. Valuable assistance was given in the preparation of the report by Mary Loretta Sullivan, Associate Economist, and Elizabeth Batson, Editorial Assistant, both of the Bureau staff.

Respectfully submitted.

FRIEDA S. MILLER, *Director.*

HON. MAURICE J. TOBIN,
Secretary of Labor.

CONTENTS

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.
2. Contractual Powers of Minors.
3. Property Exemptions from Seizure for Debt—Respective Rights of Men and Women.
4. Property of Married Woman Owned at Marriage—Ownership After Marriage.
5. Contractual Powers of Married Women.
6. Separate Earnings of Married Woman—Ownership and Control.
7. Liability of Married Woman for Family Necessaries.
8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.
9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.
10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.
11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.
12. Action to Recover Damages for Willful or Negligent Injuries to the Person or Property of One Spouse by the Other—Respective Rights of Husband and Wife.
13. Competency of Spouses to Testify For or Against Each Other.
14. Disposition of Separate Property by Will—Extent of Married Woman's Right.
15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.
16. Provision for the Surviving Spouse During Administration of the Estate.
17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.
19. Validity of Common-Law Marriage.
20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.
21. Interstate Cooperation in Marriage Law Enforcement.
22. Grounds for Marriage Annulment—Respective Availability to Man or Woman.
23. Grounds for Divorce—Respective Availability to Spouses.

v

III.—PARENTS AND CHILDREN

- 24. Services and Earnings of Minor Children—Parents' Respective Rights.
- 25. Guardianship of Minor Children—Parents' Respective Rights.
- 26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.
- 27. Inheritance from an Intestate Child—Parents' Respective Rights.
- 28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.
- 29. Inheritance from Child Born Out of Wedlock—Mother's Right.

B.—POLITICAL RIGHTS

- 30. Domicile of Married Women.
- 31. Public Office—Eligibility of Women.
- 32. Jury Service—Eligibility of Women.

THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

INTRODUCTION

Any conclusion bearing on woman's status under the laws of the United States of America must take into account the common law, on which the fabric of the Nation's jurisprudence is woven.

The common-law rules of property sprang from various causes, notably tradition, military or economic exigency, natural male dominance, and the social status of women. Shifts in these have effected an almost complete overturn in laws governing the property owned by a woman prior to her marriage and that coming into her individual ownership after her marriage, by gift, inheritance, will, or accumulation from her premarital possessions.

In general, it has been the rule that where specific statutes abrogating common-law principles have not been enacted, the common law applies. In the century just past, many of the old common-law injustices to women have been removed by statute. The largest remaining area to be reformed to the present-day trend lies in the matter of ownership and control of property acquired by the cooperative efforts of husband and wife after marriage.

The material considered centers largely around the woman in the marriage relation, since the legal status of the unmarried woman is practically identical with that of the unmarried man, with the exception of the discrimination in some States which bars women from jury duty; or of distinctions, such as variance between men and women in the statutory age of majority or age of consent to marriage.

TENNESSEE

SOURCES

Constitution of Tennessee.
Williams' Tennessee Code 1934, and 1937 Supplement.
Session Laws, 1937, 1939, 1941, and 1943.
Tennessee Reports.
Tennessee Appeals Reports.
Tennessee Civil Appeals Reports.
Southwestern Reporter.

EXPLANATORY NOTE

References to the State Constitution are indicated by parenthetical insertions of article and section number following the abbreviation Const., as (Const., art. 11, sec. 11), placed after the related subject matter.

Code section references are by section number, thus (sec. 8460); the Supplement, by the abbreviation Supp. with section number, as (Supp., sec. 7701).

Session laws are referred to by year of enactment and page number, as (1937, p. 262).

Case citations, definitely construing statutes or declaring judicial policy in the absence of express statutory provision, are indicated by numerical footnote references, and appear immediately after the related paragraphs. Cases showing historical development of a statute or policy are followed by the abbreviation (Hist.).

Subject headings are preceded by numbers, which remain constant for their respective topics through the entire State series. Cross references among topics employ these numbers for brevity, as "See Number 6," which refers to the subject heading "Separate Earnings of Married Woman—Ownership and Control."

TENNESSEE

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.

The age of majority is 21 years for both sexes, as at common law.

2. Contractual Powers of Minors.

The general rule is followed that the contract of a minor is voidable and may be repudiated either before or after attaining his majority, except in cases where the minor has effected an agreement through willful fraud and deceit.¹

The court of chancery is given power to consent to and decree a sale of a minor's property, real or personal, upon proper proceedings, when it is shown that such sale is for the minor's best interest. If over 14 years of age, the minor is made a party to the proceedings in person (secs. 9227-9243).

The State has the Uniform Law of Sales of Goods which provides that where necessaries are sold and delivered to an infant he must pay a reasonable price therefor, and that "necessaries" means goods suitable to the condition in life of the infant and to his actual requirements at the time of delivery (sec. 7195).

A minor between the ages of 18 and 21 years may petition the chancery court where he or she resides and, upon sufficient cause shown, may be emancipated from minority disabilities, either for a specific act or for the general conduct of his or her affairs (secs. 10370-10374).

The guardianship of a female minor is not terminated by her marriage.²

As to wills of minors, see Number 14.

¹ *Tuck v. Payne* (1929), 159 Tenn. (6 Smith) 192; 17 S. W. (2d) 8.

² *Mayo v. Bank of Gleason* (1918), 140 Tenn. (13 Thomp.) 423; 205 S. W. 125.

3. Property Exemptions From Seizure for Debt—Respective Rights of Men and Women.

Personal Property.

Personal property up to a total value of \$450 is exempt to the head of a family who is a citizen and permanent resident of the State. "Head of a family" includes the mother when the father is dead or has deserted his family. On dissolution of a marriage, the property exempt to the husband under this provision is exempt to the wife until she remarries (1939, ch. 138, p. 542).

If the head of the family is engaged in agriculture, such person may hold as exempt also the following property: 2 plows, 2 hoes, 1 grubbing

hoe, 1 cutting knife, 2 sets of plow gears, 1 pitchfork, 1 rake, 3 iron wedges, 1 milk cow, 10 stock hogs, and 1 horse or mule of not more than \$50 value (Supp., sec. 7708).

Exemption is allowed to each mechanic in the State, engaged in his trade or occupation, of one set of tools necessary for such work (sec. 7709).

One gun is exempted to every male citizen 18 years of age or over and to every female who is the head of a family; and one sewing machine, in the hands of every female who uses it to obtain a livelihood (sec. 7710).

Exemption of \$40 per month of wages, salary, or income, or of the entire income if less than \$40 per month, is provided for every person drawing such who is the head of a family and a resident of the State. This exemption cannot be waived by the debtor (sec. 7711).

A similar exemption, but limited in amount to \$30 per month, is provided for persons, residents, of the State but not heads of families, who are 18 years of age or above or are emancipated minors (sec. 7712).

In addition, there is exempt to heads of families \$5 per month for each dependent child under 16 years of age of the head of a family, resident of the State (Supp., sec. 7713).

Exemptions of personal property are to be set apart for the wife and family of a debtor who absconds or leaves them; and to continue to the widow and children of deceased debtor (sec. 7718).

Insurance.

Any life insurance effected by a husband on his own life inures at his death to the benefit of his widow and children; and the proceeds are to be divided between them according to the statutes of distribution, without being subject to the husband's debts (sec. 8456). See Number 15.

The net amount payable under a life-insurance policy or an annuity contract on any person's life made for the benefit of or assigned to the wife, children, or dependent relatives of such person, is exempt from claims of the creditors of such person (sec. 8458). This statute was intended to protect from creditors the cash-surrender value of such contracts; it does not prevent the insured from substituting as beneficiary one of his creditors where the contract reserves to him the right to change the beneficiary.¹

Proceeds of contracts of accident, health, or disability insurance, payable to an insured person who is a resident and citizen of the State or to his beneficiaries after his death, are declared exempt from all creditors (1937, p. 1137). See also Number 5, for insurance by wife.

Homestead.

A homestead or real estate in the possession of or belonging to the head of a family, whether the husband and/or father, or the mother when the husband and/or father is dead or has absconded and deserted his family, together with the improvements thereon, if any, not exceeding in all the value of \$1,000, is to be exempt during the life of such head of the family, and is to inure to the benefit of the widow and children of such head of the family and be exempt during the minority

of the children occupying the same. If the real estate belongs to the mother and there be no father living or the father have no real estate in which to claim a homestead, such homestead is to descend and inure to the benefit of the children of the mother and be exempt from sale in any way at the instance of creditors. The homestead or real estate, when owned by the husband, may be sold, but only by the joint consent of husband and wife, where that relation exists. But when the homestead or other exempt real estate is owned by a married woman, it may be sold and conveyed by her sole act and deed (sec. 7719, as amended by 1943 Acts, ch. 131, p. 358). [However, art. XI, sec. 11 of the Constitution requires the joint consent of husband and wife, when that relation exists, for alienation of a homestead in the possession of a head of a family.]

A homestead of real estate belonging to a married woman and the improvements, if any, to the value in all of \$1,000, is exempt from execution or attachment or sale during her life, and inures to the benefit of her children during their minority; provided, however, that her husband has no real property in which he can claim a homestead exemption; and provided further, that the exemption is not to apply to any indebtedness for purchase money owing for such homestead, or recorded indebtedness executed by her upon the homestead (sec. 7733).

A homestead exempt at the husband's death goes to his widow for her lifetime, together with the products from it, for her use and benefit and that of her family who reside with her, regardless of any contrary provision by will (sec. 7728).

¹ *Lunsford v. Nashville Savings & Loan Corp.* (1931), 162 Tenn. (9 Smith) 179; 35 S. W. (2d) 395.

4. Property of Married Woman Owned at Marriage—Ownership After Marriage.

Whatever property a woman owns in her own right at the time of her marriage remains her property after marriage (sec. 8460).¹

¹ *Henderson Grocery Co. v. Johnson* (1918), 141 Tenn. (14 Thomp.) 127, 132; 207 S. W. 723.

5. Contractual Powers of Married Women.

“Married women are fully emancipated from all disability on account of coverture, and the common law as to the disability of married women and its effects on the rights of property of the wife is totally abrogated, except as set out in the next following section and subsequent section; and marriage shall not impose any disability or incapacity on a woman as to the ownership, acquisition, or disposition of property of any sort, or as to her capacity to make contracts and to do all acts in reference to property which she could lawfully do if she were not married; but every woman now married, or hereafter to be married, shall have the same capacity to acquire, hold, manage, control, use, enjoy, and dispose of all property, real and personal, in possession, and to make any contract in reference to it, and to bind herself personally, and to sue and be sued with all the rights and incidents thereof, as if she were not married” (sec. 8460).

“Nothing in the previous section shall be construed as abolishing tenancies by the entirety, or as affecting the husband's right of curtesy consummate” (sec. 8461). See Number 9. Regarding the effect of

the Married Woman's Emancipation Act, just cited, the court has observed:

"The Act does not purport by any express provision to abrogate that fundamental principle of the common law under which, by virtue of the marriage, husband and wife became a legal unit during the existence of coverture; nor does it purport to absolve the wife from the duties to the husband which the common law, by reason of their relationship, imposed upon her; nor does it purport to deprive her of the benefits, protection, and support which her husband was at common law held bound to afford her. It does not in express terms confer upon her the right to sue her husband for torts committed upon her during coverture, nor does it purport by such terms to confer upon him the right to sue her for such torts committed by her. By no express terms of this Act are the respective rights and duties of the husband and wife toward each other involved in the marriage relation disturbed or affected, except as such a result must necessarily flow from the exercise by her of the powers and capacities in respect of her property rights in the Act set out."¹

The husband's estate by curtesy vests on the death of the wife in her real estate, and she cannot by will defeat this right [sec. 8098]. She may dispose of her real property during coverture, however, without her husband's joinder in the conveyance, as his right attaches only at her death.²

All the statutes of limitation that apply in favor of or against a feme sole and her property apply and operate in favor of or against married women and their property (sec. 8462).

A married woman may cause life insurance to be effected upon her husband's life, and this insurance is in no case subject to the debts of the husband, but inures to the benefit of the widow and children, or either of them, as the case may be (sec. 8457).

¹ *Lilienkamp v. Rippetoe* (1915), 133 Tenn. (6 Thomp.) 57, 62.

² *Schaffler v. Handwerker* (1925), 152 Tenn. (25 Thomp.) 329, 333, 336; 278 S. W. 967.

6. Separate Earnings of Married Woman—Ownership and Control.

There is no specific statute as to the wife's right to receive and hold as her separate estate her earnings from services rendered to others than her own family.

7. Liability of Married Woman for Family Necessaries.

A married woman is liable for contracts made by her, on her own credit, and this includes contracts for necessaries (sec. 8460).¹

¹ *Baird v. Lebeck Bros.* (1917), 7 Tenn. Civ. App. 225, 228.

8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.

There is no statute requiring a wife to obtain formal consent of her husband or a decree of court prior to engaging in business on her own account. The provisions of the Married Woman's Emancipation Act [sec. 8460] seem to give her the necessary freedom from disabilities of coverture to engage in business as if unmarried.

9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.

The court holds that by the provisions of the Married Woman's Emancipation Act [see text in Number 5] it is intended to deprive the husband of all his common-law rights with respect to the wife's property during coverture:

"* * * It was intended that she should hold such property during coverture just as if she were not married and the only way that the husband can acquire her property during coverture is by purchase or gift, just as he might acquire the property of a stranger. He is not entitled to appropriate her money without her consent nor to reduce her choses in action to his possession by virtue of his marital right during coverture. Such rights are destroyed by these emancipation statutes."¹

Tenancies by entirety are not abolished by the operation of the Married Woman's Emancipation Act (sec. 8461). But the husband has not the dominant control of such property that he had prior to the adoption of the act.²

Tenancies by the entirety in respect to personal property are recognized under the present law.³

¹ *Tellico Bank & Trust Co. v. Loomis* (1922), 147 Tenn. (20 Thomp.) 158, 162; 246 S. W. 21.

² *Alfred v. Bankers' & Shippers' Ins. Co.* (1934), 167 Tenn. (3 Beeler) 278, 283; 68 S. W. (2d) 941.

³ *Campbell v. Campbell* (1934), 167 Tenn. (3 Beeler) 77, 83; 66 S. W. (2d) 990.

10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.

There is no community of interest in husband and wife as to property acquired after marriage by their cooperative efforts, but the common-law rule governs, that such property belongs to and is controlled by the husband during the marriage, unless joint ownership is established by deed or contract.

11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.

A wife may bring action in her name alone to recover damages for personal injuries to herself received at the hands of strangers.¹

¹ *Knoxville Ry. & Light Co. v. Vangilder* (1915), 132 Tenn. (5 Thomp.) 487, 499; 178 S. W. 1117.

12. Action to Recover Damages for Willful or Negligent Injuries to the Person or Property of One Spouse by the Other—Respective Rights of Husband and Wife.

The common-law rule remains unchanged, that neither spouse can maintain an action in tort against the other for a personal injury.¹

¹ *Tobin v. Gelrich* (1930), 162 Tenn. (9 Smith) 96, 99; 34 S. W. (2d) 1058.

13. Competency of Spouses To Testify For or Against Each Other.

Husband and wife are equally competent witnesses in all civil actions, though neither may testify as to any matter that occurred between them by virtue, or in consequence, of the marital relation

(secs. 9774, 9777). In all criminal cases, the husband or the wife is a competent witness to testify for or against the other (sec. 9778).

14. Disposition of Separate Property by Will—Extent of Married Woman's Right.

Any person of sound mind 18 years of age or over may make a valid will disposing of real or personal property. "Person" means man or woman, single or married (1941, ch. 125, p. 449). But a wife may not by her will defeat her husband's curtesy right in real estate she owns at her death (sec. 8098).

15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.

The surviving spouse of a deceased person dying intestate shares in the estate as follows:

Real Estate.

If the intestate leaves no heirs at law capable of inheriting the real estate, it is inherited by the husband or wife in fee simple (sec. 8382).

If the intestate leaves heirs (either lineal descendants, collateral kindred, or ascendants), a surviving spouse does not inherit, but takes only a life interest in the real property. See sec. 8380.

Life Interests.

A widow is entitled to dower in one-third part of all the lands of which her husband was seized and possessed at death or in which he had equitable title (secs. 8351-8353), unless the right has been barred or forfeited during marriage. [For examples of matters defeating dower, examine annotations under heading "Defeat of Dower Right," Williams' Tennessee Code 1934, page 749.]

The family dwelling house and appurtenances are included in the dower third, unless the widow agrees otherwise or the court makes other provision (secs. 8354-8355).

The husband has an estate of curtesy in the wife's real property which attaches only at her death (sec. 8461).¹

Personal Estate.

After payment of debts and estate charges:

1. If issue survive, the living spouse inherits equally with the children, taking a child's share.

2. If no children or descendants of children survive, the living spouse takes the entire distributable portion (sec. 8389, subsecs. 1-2).

See No. 17 for spouse's rights when dissenting from the will of deceased husband or wife.

¹ *Pattison v. Baker* (1923), 148 Tenn. (21 Thomp.) 399, 406; 255 S. W. 710; 29 A. L. R. 1334. (Hist.)

16. Provision for the Surviving Spouse During Administration of the Estate.

When a husband dies intestate, his widow, until administration is granted, is empowered by law to take possession of and manage all his

personal estate, including growing crops, and to make use of such part of crops and provisions as may be necessary for the support of herself and family (sec. 8230).

On application of such a widow or of one who dissents from her husband's will, the county court appoints three freeholders to set apart the necessary assets for 1 year's family support (sec. 8231).

The assets so set apart become the absolute property of the widow for use as family support, free from estate debts or claims (sec. 8232).

Whatever property is exempt by law from execution to the husband continues exempt after his death and vests in the widow for herself and in trust for the benefit of the children of the deceased, if any, without regard to the size or solvency of the estate (sec. 8234). See Number 3.

The statutory provisions for homestead, exempt property, or year's support do not apply in the case of a widow whose husband was a nonresident of the State at the time of his death.¹

¹ *Hascall v. Hafford* (1901), 107 Tenn. (23 Pick.) 355; 65 S. W. 423.

17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

The surviving wife or husband may dissent from the will of a deceased spouse: (1) Where a satisfactory provision is not made for her or him, the dissent to be placed on record within 1 year from the probate of the will; and (2) where provision in personal estate is made for the surviving spouse, but the entire estate, including the bequest, is taken for payment of debts, in which case dower or curtesy may be claimed. In either case, the provision for the living spouse is the same as if no will had been made, and he or she is entitled to the distributive share provided by law (secs. 8358, 8359). That is, in addition to dower or curtesy in the real estate the living spouse is entitled to one-third of the personal estate if no child or not more than two children survive, but if more than two children survive she or he shares equally with the children in the personal estate, taking a child's part (secs. 8359, 8360).

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.

The minimum age of consent to effect a legal marriage is 16 years for both parties. License to marry may be issued only upon written application, sworn to by the male applicant, in the form provided by law; a 3-day waiting period and registered-mail notice to parent or guardian of the female are required. Exceptions to this rule are: (1) Suspension of waiting period or age limit by designated court upon good cause shown; (2) parental joinder in license application, showing the female to be over 18 years of age; or (3) personal knowledge of license clerk that both applicants are over 21 years of age. Violation of requirements by licensing officer is a misdemeanor and subject to penalty. But failure to comply with the requirements of this law does not affect the validity of any marriage consummated by ceremony (1937, p. 262).

19. Validity of Common-Law Marriage.

Regarding common-law marriages the court has said:

"While our cases do not recognize the validity of a common-law marriage, nevertheless the doctrine of estoppel is applied to the rights of interested parties, and, for all civil purposes, it seems that much the same effect is given to such alliances as though valid in law.

"This court long since held that where a man and woman had lived together as man and wife, and held themselves out as such for many years, neither would be permitted to deny that such relation existed between them."¹

¹ *Bohlen-Huse Coal & Ice Co. v. McDaniel* (1923), 148 Tenn. (21 Thomp.) 628, 632; 257 S. W. 848.

20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.

There is no provision in the statutes requiring a health certificate of either applicant for a license to marry.

21. Interstate Cooperation in Marriage Law Enforcement.

The State recognizes the general rule that if a marriage is valid where solemnized it is valid everywhere. But it has refused to follow this rule in cases where such recognition was held violative of a statute "passed in pursuance of a determined policy of the State, in the interest of public morals, peace, and good order of society."¹

¹ *Pennegar v. State* (1889), 87 Tenn. (3 Pick.) 244, 256; 10 S. W. 305; 10 A. S. R. 648.

22. Grounds for Marriage Annulment—Respective Availability to Man or Woman.

If either contracting party is under 16 years of age, the marriage may be annulled (1937, p. 262). In an action for divorce, if the complaining party, in the judgment of the court, is entitled to such relief, a marriage may be declared entirely void (sec. 8443) or be annulled (sec. 8445). Nonage,¹ a living spouse of a prior undissolved marriage,² mental incapacity to contract marriage,³ or force employed to obtain consent⁴ are grounds upon which annulment has been granted.

¹ *Governor, etc., v. Rector and Ryland* (1849), 29 Tenn. (10 Humphreys) 57, 61.

² *Sellars v. Davis* (1833), 12 Tenn. (4 Yerger) 503, 505.

³ *Cole v. Cole* (1857), 37 Tenn. (5 Sneed) 57.

⁴ *Willard v. Willard* (1873), 65 Tenn. (6 Baxter) 297.

23. Grounds for Divorce—Respective Availability to Spouses.

Absolute divorce may be granted to the injured party for any of the following causes: (1) That either party at the time of the marriage was, and still is, naturally impotent and incapable of procreation; (2) that either party has knowingly entered into a second marriage, in violation of a previous marriage still subsisting; (3) that either party has committed adultery; (4) willful or malicious desertion or absence of either party, without reasonable cause, for 2 whole years; (5) being convicted of any crime which, by the laws of the State, renders the party infamous; (6) being convicted of a crime which, by

the laws of the State, is declared to be a felony, and sentenced to confinement in the penitentiary; (7) that either party has attempted the life of the other, by poison or any other means showing malice; (8) habitual drunkenness of either party when such party contracted the habit after marriage.

Such relief may be granted to the husband for refusal, on the part of a wife, to remove with him to this State, without a reasonable cause, and willfully absenting herself from him for 2 years; or because the woman was pregnant at the time of the marriage, by another person, without the knowledge of the husband (sec. 8426).

In the discretion of the court, a legal separation or an absolute divorce may be decreed on the ground (1) That the husband or wife is guilty of such cruel and inhuman treatment or conduct toward the spouse as renders cohabitation unsafe and improper, and, in the case of the wife, causes her to be under the dominion and control of the husband; or (2) that the husband has offered such indignities to the wife's person as to render her condition intolerable, and thereby forced her to withdraw; or (3) that he has abandoned her, or turned her out of doors, and refused or neglected to provide for her (sec. 8427).

After annulment or dissolution of a marriage, either party may marry again. But a defendant guilty of adultery cannot marry the person with whom the act was committed, during the life of the former husband or wife (sec. 8452), either in this State or in another State where such marriages are not prohibited, if contracted there by residents and citizens of Tennessee for the evident purpose of evading this law.¹ The children of the attempted union are illegitimate.²

A second marriage cannot be contracted before the dissolution of the first. But the first is regarded as dissolved for this purpose if either party has been absent for 5 years and is not known to the other to be living (sec. 8411).

"If upon a false rumor, apparently well founded, of the death of one of the parties, who has been absent 2 whole years, the other party marries again, the party remaining single may, upon returning, insist upon a restoration of conjugal rights or upon a dissolution of the marriage, and the court shall decree accordingly, to wit: that the first marriage shall stand and the second be dissolved, or vice versa; but such bill or petition shall be filed within 1 year after the return" (sec. 8439).

¹ *Pennegar v. State* (1889), 87 Tenn. (3 Pick.) 244, 255; 10 S. W. 305; 10 A. S. R. 648.

² *Jennings v. Jennings* (1932), 165 Tenn. (1 Beeler) 295, 301; 54 S. W. (2d) 961.

III.—PARENTS AND CHILDREN

24. Services and Earnings of Minor Children—Parents' Respective Rights.

Fathers and mothers have equal powers, rights, and duties with respect to the custody of their minor child or children, and the control, services, and earnings of such minor child or children; provided, that so much as may be necessary of the net income of such minor child may be expended in his care, maintenance, and education (sec. 8463).

25. Guardianship of Minor Children—Parents' Respective Rights.

Fathers and mothers are joint natural guardians of their minor children, and they are equally and jointly charged with their care, nurture, welfare, education, and support, and also with the care, management, and expenditure of their estates (sec. 8463).

If either parent die, or is incapable of acting, the guardianship of such minor child or children devolves upon the surviving parent, or parent capable of acting (sec. 8465).

If the parents are separated or divorced, the court may award the guardianship of their minor child to that parent who the court deems will best safeguard the child's interests (sec. 8466).

26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.

The parents jointly, or the survivor of them, may appoint by written instrument or will a guardian to have custody and tuition of their legitimate unmarried child during his minority (sec. 8474).

The mother of an illegitimate child may appoint a testamentary guardian of his custody and tuition (sec. 8475).

27. Inheritance from an Intestate Child—Parents' Respective Rights.

The parents of an intestate person dying without descendants inherit as follows:

Land.

1. Without regard to source of title.—If decedent left no brothers or sisters or their issue and either parent be living, then such parent inherits all the land.

2. When the land was acquired by the decedent.—If decedent left no brothers or sisters or their issue, his father and mother inherit as tenants in common.

3. When the land came to the decedent by gift, devise, or descent from a parent or the ancestor of a parent.—If decedent left no brothers or sisters, then the parent from whom or from whose ancestors it came inherits, in preference to the other parent. If the transmitting parent is dead the other parent takes the inheritance (sec. 8380).

Personalty.

1. If no spouse survives, the net personal estate is taken by the decedent's parents in equal parts; if one parent is dead, the whole estate passes to the surviving parent (sec. 8389, subsec. 4).

28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.

To indemnify the county against charges for the maintenance of bastards, the father, if he can be ascertained, is liable to court proceedings as provided by law (sec. 4917). But the county court is to make no provision for a bastard unless he is, or is likely to become, a county charge (sec. 11951). If the proceeding is brought, and the man accused is found to be the father of the child, he is charged with its

maintenance in such sum or sums as the court directs, which may not exceed \$60 per year until the child is 12 years of age. When that age is reached, the court must dispose of the child for its best interests, by giving it either to the reputed father or to some other suitable person for adoption (secs. 11949, 11950). The court is empowered to enforce its orders for collection of payments (sec. 11953).

If upon examination before the court the mother refuses to declare the father, she must give proper bond to insure the maintenance of the child, or be committed to jail until she declares the father or gives the security required, or is otherwise discharged by law (sec. 11937).

29. Inheritance from Child Born Out of Wedlock—Mother's Right.

The surviving mother of an illegitimate child inherits his real and personal estate, if he leaves no issue or spouse (secs. 8383, 8391).

B.—POLITICAL RIGHTS

30. Domicile of Married Women.

A woman, of whatever age, acquires at marriage the domicile of her husband, and her domicile continues to be the same as his, and changes with his throughout their married life.^{1 2}

¹ *Farris v. Sipes* (1897), 99 Tenn. (15 Pick.) 298, 301; 41 S. W. 443.

² *Hascall v. Hafford* (1901), 107 Tenn. (23 Pick.) 355; 65 S. W. 423.

31. Public Office—Eligibility of Women.

There is no statutory discrimination on the basis of sex in the terms of eligibility for public office (sec. 1812).

32. Jury Service—Eligibility of Women.

Only male citizens are eligible for jury service (sec. 10006).

