

American Legal History – Russell

Laws of New York, 85th session, Chap. 172 (1860).

An Act to amend the act entitled "An Act concerning the rights and liabilities of husband and wife," passed March twentieth, eighteen hundred and sixty.

Passed April 10, 1862; three-fifths being present.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The third section of the act entitled "An act concerning the rights and liabilities of husband and wife," passed March twentieth, eighteen hundred and sixty, is hereby amended so as to read as follows:

§ 3. Any married woman possessed of real estate as her separate property, may bargain, sell and convey such property and enter into any contract in reference to the same, with the like effect in all respects as if she were unmarried, and she may in like manner enter into such covenant or covenants for title as are usual in conveyances of real estate, which covenants shall be obligatory to bind her separate property, in case the same or any of them be broken.

§ 2. The fourth, fifth, sixth, ninth, tenth and eleventh sections of the said act are hereby repealed.

§ 3. The seventh section of the said act is hereby amended so as to read as follows:

§ 7. Any married woman may, while married, sue and be sued in all matters having relation to her sole and separate property, or which may hereafter come to her by descent, devise, bequest, purchase, or the gift or grant of any person in the same manner as if she were sole; and any married woman may bring and maintain an action in her own name, for damages, against any person or body corporate, for any injury to her person or character, the

same as if she were sole; and the money received upon the settlement of any such action or recovered upon a judgment, shall be her sole and separate property. In case it shall be necessary in the prosecution or defence of any action brought by or against a married woman, to enter into any bond or undertaking, such bond or undertaking may be executed by such married woman with the same effect in all respects as if she were sole, and in case the said bond or undertaking shall become broken or forfeited the same may be enforced against her separate estate.

§ 4. The eighth section of the said act is hereby amended so as to read as follows:

§ 8. No bargain or contract made by any married woman, in respect to her sole and separate property, or any property, which may hereafter come to her by descent, devise, bequest, purchase, or the gift or grant of any person except her husband,) and no bargain or contract entered into by any married woman in or about the carrying on of any trade or business, under any statute of this state, shall be binding upon her husband, or render him or his property in any way liable therefor.

§ 5. In an action brought or defended by any married woman in her name, her husband shall not neither shall his property be liable for the costs thereof, or the recovery therein. In an action brought by her for an injury to her person, character or property, if judgment shall pass against her for costs, the court in which the action is pending shall have jurisdiction to enforce payment of such judgement out of her separate estate, though the sum recovered by less than one hundred dollars.

§ 6. No man shall bind his child to apprenticeship or service or part with the control of such child or create any testamentary guardian therefor, unless the mother if living, shall in writing signify her assent thereto.

§ 7. A married woman may be sued in any of the courts in this state, and whenever a judgment shall be recovered against a married woman the same may be enforced by execution against her sole and separate estate in the same manner as if she were sole.

§ 8. This act shall take effect on the first day of July next.

EOD