

### 518.63 HOMESTEAD, OCCUPANCY

HISTORY. 1951 c 551 s 10.

### 518.64 ALTERATION OF ORDERS OR DECREES

HISTORY. 1951 c 551 s 11.

Jurisdiction of the district court to revise divorce decrees to change the amount of support money requires a petition in writing and notice thereof properly served on the party affected by the relief sought. In the instant case there was substantial compliance to this requirement and the court had jurisdiction. From the few facts found in the record the trial court's order is not sustained by the evidence, and the court's conclusion and order abating arrears of support money and vacating an order for future support was an abuse of the discretion vested in the court. *Papaik v Papaik*, 235 M 393, 51 NW(2d) 68.

### 518.65 PROPERTY; SALE, PARTITION

HISTORY. 1951 c 551 s 12.

### 518.66 POWERS OF COURT NOT LIMITED

HISTORY. 1951 c 551 s 13.

### 518.67 APPLICATION

HISTORY. 1951 c 551 s 14.

Where, in a divorce case, the findings of fact and conclusions of law were dated March 27, 1951, but judgment was not entered until April 20, 1951, the date when Laws 1951, Chapter 551, was approved, the provision that the property acquired during coverture shall be disposed of as shall appear just and equitable, is applicable to the divorce case. *French v French*, 236 M 439, 53 NW(2d) 215.

## CHAPTER 519

### MARRIED WOMEN; RIGHTS, PRIVILEGES

#### 519.01 SEPARATE LEGAL EXISTENCE

Extent to which the common law concept of the unity of husband and wife and its consequences have been abrogated in Minnesota by the Married Women's Act and related statutes. 32 MLR 262.

Separate legal existence at common law under the Minnesota statutes. 32 MLR 263.

Capacity of a married woman to sue and be sued. 32 MLR 265.

Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Contracts inter se; antenuptial contracts; postnuptial contracts. 32 MLR 278.

Action for loss of consortium caused by negligent injury to spouse. 35 MLR 318.

Marital deduction; estate tax. 36 MLR 50.

Rights of husband and wife to limit evidentiary disclosures in court by their spouses. 36 MLR 251.

# MINNESOTA STATUTES 1953 ANNOTATIONS

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## MARRIED WOMEN; RIGHTS, PRIVILEGES 519.05

A child has legally protected rights in the maintenance of the family relationship against interference of outsiders, and enticement by an outsider of the child's mother from the family home constitutes an invasion of the child's rights for which the child may maintain an action for damages. The novelty of the right asserted in the instant case and the lack of common-law precedent therefor are no reasons for denying the existence of the right of action. *Miller v Monsen*, 228 M 400, 37 NW(2d) 543.

Under section 176.15, which provides that an employer shall be liable for the reasonable expenses incurred by or on behalf of an employee in providing nursing services, an award cannot be made for such services furnished by respondent's wife in the absence of a showing that respondent incurred expenses for such services or that his wife was forced to give up other remunerative employment in order to render such services. The action of the commission in allowing the wife payment for her services is reversed. *Graf v Montgomery Ward*, 234 M 485, 49 NW(2d) 797.

One spouse cannot maintain a tort against the other during coverture. *American Auto. Ins. Co. v Molling*, ..... M ....., 57 NW(2d) 847.

The common law doctrine of coverture was abolished in Minnesota and married women enjoy the same legal existence as before marriage and equal rights in dealing with her personalty with her husband and therefore a wife may convey by gift her personalty to her husband and through him to others. *Warner v Florida Bank & Trust Co.*, 160 F(2d) 766.

Husband and wife may hold, respectively, offices of mayor and village clerk, at one and the same time. OAG Dec. 13, 1951 (471-I).

### 519.02 PROPERTY RIGHTS

Capacity of a married woman to sue and be sued. 32 MLR 265.

Property rights of married women. 32 MLR 269.

Property rights; returns and profits; redress for tort. 32 MLR 273.

Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Convicts; civil death; marital status; statutes in pari materia. 33 MLR 319.

Marriage; quasi contract; remedy of putative wife. 33 MLR 321.

A wife under Minnesota law may convey by gift her personal property to her husband, and through him to others, since the common law doctrine of coverture was abolished by statute giving to a married woman the same legal existence as before marriage and equal rights in dealing with her personal property with her husband. *Warner v Florida Bank & Trust*, 160 F(2d) 766.

### 519.03 RESPONSIBLE FOR TORTS AND BOUND BY CONTRACT

Capacity of a married woman to sue and be sued. 32 MLR 265.

Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Torts; at common law; under Minnesota law. 32 MLR 281.

Personal torts between spouses; effect of annulment on right of recovery. 33 MLR 199.

### 519.04 PROPERTY ACQUIRED BY WIFE DURING SEPARATION; CONVEYANCES

The fact that the person proposed to be hired by the city is the wife of one of the councilmen is not in itself a sufficient disqualifying interest to render the contract of employment void. OAG March 29, 1951 (90-E).

### 519.05 LIABILITY OF HUSBAND AND WIFE

Capacity of a married woman to sue and be sued. 32 MLR 265.

# MINNESOTA STATUTES 1953 ANNOTATIONS

## 519.06 MARRIED WOMEN; RIGHTS, PRIVILEGES

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Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Crimes; at common law; under Minnesota law. 32 MLR 288.

Privileged communications; extent of the privilege as affecting husband and wife. 34 MLR 257.

A husband is personally responsible for the expenses of his wife's burial. *Mattfeld v Nester*, 226 M 106, 32 NW(2d) 291.

As between husband and wife the duty to support the family ordinarily rests upon the husband; but where the wife uses her own money, or permits her husband to do so, to pay household expenses under circumstances which disclose that she did not intend to be repaid, she has no claim upon her husband for such expenditures. *Petersen v Swan*, ..... M ....., 57 NW(2d) 852.

In the absence of manifest error the court under the doctrine of stare decisis must follow its previous decision; and while the common law is flexible and adaptive and applicable to new conditions, courts cannot abrogate its established rules any more than they can abrogate a statute. One spouse cannot maintain an action against the other for a personal tort committed during coverture. The driver of an automobile was not liable to the wife in tort for injuries sustained by her in a collision with an insured automobile and the liability insurer, having satisfied a judgment for such injuries against the insureds could not recover contribution from the injured person's husband, since his marital immunity from liability to the injured wife resulted in an absence of the element of common liability essential to action for contribution. *American Auto Ins. Co. v Molling*, ..... M ....., 57 NW(2d) 847.

When a husband and wife live together there are jointly and severally liable for all necessary household articles and supplies used by the family. OAG Feb. 26, 1948 (339-N).

The marriage contract imposes no obligation on a wife to support her husband. OAG Feb. 26, 1948 (339-N).

## 519.06 CONTRACTS BETWEEN HUSBAND AND WIFE

Capacity of a married woman to sue and be sued. 32 MLR 265.

Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Property division pursuant to a stipulation as a consent judgment in divorce decrees; power to modify or vacate the judgment. 37 MLR 395.

In an action by a surety against principals and their wives to recover judgment, set aside mortgages from the principals to their wives, and for the appointment of receiver of other nonexempt assets belonging to the principals, where the mortgages to the wives were declared to be regular and valid, litigation as to the wives was at an end, and the wives were not "aggrieved parties" who could appeal from a subsequent order of the court that the receiver turn over funds to his possession to the surety; and where the wives acquiesced in the validity of the receiver's appointment for over four years, they are not in a position to attack the appointment. *London & Lancashire Indemnity Co. v Nelsen*, 230 M 423, 41 NW(2d) 826.

In an action for specific performance of an oral contract for transfer of real estate from parents to daughters, where the father's second wife claimed under a deed executed by her father upon remarriage did not show absence of notice, the statute providing each spouse shall be held to have notice of contracts and debts of the other as fully as if a party thereto, was not applicable. *Goette v Howe*, 232 M 168, 44 NW(2d) 734.

A wife under Minnesota law may convey by gift her personal property to her husband, and through him to others, since the common law doctrine of coverture was abolished by statute giving the married woman the same legal existence as before marriage and equal rights in dealing with her personal property with her husband. *Warner v Florida Bank & Trust*, 160 F(2d) 766.

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## MARRIED WOMEN; RIGHTS, PRIVILEGES 519.101

The common law doctrine of coverture was abolished in Minnesota and married women enjoy the same legal existence as before marriage and equal rights in dealing with her personality with her husband and therefore a wife may convey by gift her personality to her husband and through him to others. *Warner v Florida Bank & Trust Co.*, 160 F(2d) 766.

Stipulations between husband and wife for purposes of a property settlement in a divorce proceeding are recognized. *Hafner v Hafner*, 237 M 424, 54 NW(2d) 854.

A divorce decree providing for a division of property based on a stipulation of the parties is in the nature of a consent decree as to that part providing for the division of the property, and such part of the decree may be modified on proof of fraud or mistake. A motion is proper procedure to institute proceedings for the vacation of a consent decree. *Hafner v Hafner*, 237 M 424, 54 NW(2d) 855.

Whether the giving of consent to a stipulation for the division of property in a divorce proceeding was due to a mistake of fact is a question of fact for the trial court; and in the instant case it is sufficient evidence in the record to sustain such a finding by the trial court. *Hafner v Hafner*, 237 M 424, 54 NW(2d) 855.

Without a wife's signature, a contract which purports to convey the homestead and which was signed only by the husband, was void until adopted or confirmed by the other spouse. Purchasers did not acquire any rights to such property until they received a deed from both husband and wife. *Marr v Bradley*, ..... M ....., 59 NW(2d) 331.

Under treasury regulations "economic interests" of decedent in mining properties in the form of royalties wholly dependent upon production held assignable to decedent's wife prior to his death in an amount equal to the fair value of services decedent had rendered to the mining companies in return for which he had received the right to such royalties. *Van Slyke v Kelm*, 107 F Supp 229.

### 519.07 BARRING INTEREST OF SPOUSE; RIGHTS RECIPROCAL

Defeasible fee terminated at husband's death. 36 MLR 280.

### 519.08 ANTENUPTIAL CONTRACTS

Extent to which the common law concept of the unity of husband and wife and its consequences have been abrogated by the Minnesota Married Women's Act and related statutes. 32 MLR 262.

Capacity of a married woman to sue and be sued. 32 MLR 265.

Right to contract; at common law; under Minnesota statute. 32 MLR 275.

Antenuptial contracts providing for property settlement in the event of divorce. 36 MLR 504.

The fact that in conflict of law's cases the court may be required to ascertain and apply the law of the state other than that in which the federal court is located, does not mean that the court must apply foreign law when such application is opposed to the public policy of the state forum. The New York statute prohibiting actions for breach of marriage promise as a matter of public policy prevents the plaintiff from obtaining relief in federal court in New York on a transitory cause arising in North Carolina. *O'Connor v Johnson*, 74 F Supp 370.

### 519.09 DOWER AND CURTESY ABOLISHED

HISTORY. Amended, 1949 c 308 s 1.

### 519.101 ACTIONS NOT MAINTAINABLE

HISTORY. 1949 c 308 s 2.