

## WHO SHOULD PAY THE DOCTOR?

has become notorious, or the husband has given sufficient notice that he will no longer be responsible for any debts that she may incur: (*Harrison v. Grady*, 13 L. T., N. S. 369; *Cooper v. Lloyd*, 6 C. B., N. S. 519; *Roper on Husband and Wife*, 2nd ed. v.ii. p. 114). If a husband turn an innocent wife out of doors without the means of obtaining necessities, it is a presumption of law which cannot be rebutted by evidence, that she was turned out with the authority of her husband to pledge his credit for necessities, and in such a case medical attendance will be considered as one of the most primary necessities: (*Harrison v. Grady*, supra; *Thorpe v. Shapleigh*, 67 Me. 235.) A married woman's misconduct does not exonerate the husband from paying a doctor whom he requests to attend her: (*Webber v. Spaunpake*, 2 Redf., N. Y., 258.)

Although the law requires the husband to furnish the wife with all necessities suitable to his condition in life, including medical attendance in case of sickness, still it gives him the right to procure these necessities himself and to decide from whom and from what place they are to come. If a physician attends a wife whom he knows to be living separate and apart from her husband, he ought to enquire whether she has good cause for so doing; for if she has not he cannot make the husband pay the bill; and it has been held that it devolves upon the doctor to show that there was sufficient cause for the wife's separation: (*Berier v. Galloway*, 71 Ill. 517; *Hartmann v. Tegart*, 12 Kan. 177.) The employment of a physician by a husband to attend his sick wife presumably continues throughout the illness; and the mere fact that the wife is removed, with the husband's consent, from his home to her father's, will not enable him to resist payment of the doctor's bill for visits paid to her at the father's: (*Potter v. Virgil*, 67 Barb. N. Y., 578.)

Notwithstanding the law's desire not to favor any particular school—a quack's bill was thrown out in a case where the services were

rendered without the husband's assent. This was done in a case where a doctor was in the habit of putting a woman into a mesmeric sleep, who thereupon became a clairvoyant, and prescribed the medicines which the doctor furnished, and for these he sued. The judge said:—"The law does not recognize the dreams, visions or revelations of a woman in mesmeric sleep as necessities for a wife for which the husband, without his consent, can be made to pay. These are fancy articles which those who have money of their own to dispose of may purchase if they think proper, but they are not necessities known to the law for which the wife can pledge the credit of the absent husband." (*Wood v. O'Kelley*, 8 Cush. 406.)

In England it is considered that a parents' duty to furnish necessities for an infant child is a moral and not a legal one, so that he is not liable to pay for medicines or medical aid furnished to his child without some proof of a contract on his part either expressed or implied. The rule of law varies in the different States of the Union. In most of them in which the question has come before the Courts the legal liability of the parent for necessities furnished to the infant is asserted, unless they are otherwise supplied by the father; and it is put upon the ground that the moral obligation is a legal one, and some of the Courts have declared this quite strongly. In other States the English rule has been held to be law, and agency and authority has been declared to be the only ground of such liability. The authority of the infant to bind the parent for medical aid supplied him will be inferred from very slight evidence: (*Parsons on Contracts*, vol. I. p. 302-303; *Blackburn v. Mackey*, 1 C. & P. 1.) But a contract to pay will not be implied when the infant has been allowed a sufficiently reasonable sum for his expenses: (*Crantz v. Gill*, 2 Esp. 471.) Where the services have been rendered with the parent's knowledge and consent, he will generally have to pay for them. A boy left home against his father's