

## The Legal News.

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### HUSBAND AND WIFE.

The female spider, when her consort ceases to be agreeable to her in other ways, eats him. In human societies the process is sometimes reversed, either literally or figuratively according to the stage of civilization in which the event occurs. But wives are now obtaining greater privileges, and one of the consequences of the Married Women's Property Act in England has been a judicial decision, that a wife with a house of her own can turn her husband out of it and obtain the aid of the Court to keep him out. (See 6 L. N. 268). That case is now before the House of Lords. The same question has come up in Pennsylvania, in *Commonwealth v. Springer*, in which the sole question was, can a wife exclude her husband from the right to eat at her table, ride in her carriage, and sleep in her bed? The court said: "While the relation of husband and wife continues in its normal condition, and there is no rupture of those relations or separation between the parties, it is admitted the husband possesses all those privileges. However unwilling he may be to consent to such a summary divorce from his wife's bed and board, and the comforts of her society and enjoyment of her property, we can see no way to insure to him those rights and comforts by force. The right may exist, but the remedy is by making himself agreeable to her rather than by resorting to force and arms. He perhaps may use actual force as between him and her so long as he does not injure her person, destroy her property, or break the public peace. The latter is of paramount importance, and must be preserved regardless of the consequences to mere private rights. The difficulty here presented did not exist at common law; it has grown out of the Married Woman's Act. If she is strong enough to turn her husband out of her house, or after he has voluntarily left it, if she can successfully bar the doors against him so securely as to require actual

force and a breach of the public peace to effect an entrance, I am inclined to the opinion that his only remedy is to seek another home, invite her to share it with him, and upon refusal subject her to the pains and penalties of willful desertion. In such case he could either refuse to contribute to her support, and preserve his right of curtesy in her estate by denying her a lawful divorce, or if he desired it, he could successfully break the bonds of matrimony and seek a more congenial wife. In *Commonwealth v. McGotrick*, 1 Del. Co. Rep. 446, we held the husband to keep the peace in a somewhat similar case. To attempt to break into her house by force would result in forcible resistance by her, her friends, mercenaries and coadjutors. No personal valor of his could overcome such troops. This would require an accumulation of additional forces, munitions, and munitions of war upon his part, ending in riot and bloodshed requiring peradventure the interference of the militia, army and navy of the Commonwealth. The dreadful consequences of matrimonial infelicity to the old city of Troy admonish us to nip the germ of strife in the bud by holding the husband to keep the peace and be of good behavior."

The remedy pointed out by the Court in the remarks quoted above agrees with our law, the Code having enacted (Art. 175) that "a wife is obliged to live with her husband, and to follow him wherever he thinks fit to reside." It is only when she has obtained a separation from bed and board that she has "the right of choosing for herself a domicile other than that of her husband." (Art. 207).

### THE N. Y. COURT OF APPEALS.

Evil days have come to the members of appellate courts. A voice is now heard, and lamentation, from the State of New York. The pet court, the unrivalled team, the champion seven, are vanquished. The *Albany Law Journal* says:—

"The Court of Appeals have failed to clear their calendar at the close of the year. The judges have labored with their accustomed devotion and fidelity, and have decided about the usual number of causes, say 530. But the appeals have increased, and there will be a remanet of probably 150, and these