

U. S. Rep.]

SUPREME COURT OF ILLINOIS.

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high-handed and unlawful design. To the complainants, the acts they were organized to perpetrate on that day were fraught with irreparable injury. Feeble, indeed, would be the judicial arm if it could not reach such miscreants. To save a debt of twenty dollars, judicial acts can be performed on Sunday, and ministerial as well. To prevent the ruin of an individual such an act must not be done! Lame and impotent conclusion. In Comyn's Digest, title "*Temp*," under the head *Dies non juridicus*, it is said the Chancery is always open. So the Exchequer may sit upon a Sunday, or out of term; p. 333 (c. 5). There is nothing, to an intelligent mind, revolting in this. Suppose, in times of high political excitement, a citizen is indicted for treason, and judgment of death pronounced against him by a servile judge, who, not a slave of the Crown, as were Trevelyan, Scroggs, and Jeffries, but yet the slave of an enraged populace, on an indictment never returned into court or found by a grand jury, and defective in every essential, and this judgment pronounced on Saturday, and the time of his execution fixed on the following Monday. To arrest this proposed judicial murder, an application is made to a member of the appellate court on the intervening Sabbath; who would justify the judge should he fold his arms, and, on the plea the day was not a judicial one, suffer the victim to be led to execution? The necessity of the case would be the law of the case. The judge who has no respect for this principle is unworthy the ermine, and an unfit conservator of the rights of the citizen. The case before us is not one of life or death, but involves irreparable injury to property. An imperious necessity demanded the prompt interposition of chancery. On that principle the act is fully justified. This is the dictate of right, of reason, of common justice and common sense.

The decree of the court below, quashing the writ of injunction and dismissing the bill, is reversed, and the cause remanded for further proceedings.—*Chicago Legal News*.

HARRIET M. HAIGHT v. FRANKLIN McVEAGH and WAYNE McVEAGH.

*The Act of 1861, relating to a married woman's separate property, and of 1869, relating to her earnings, construed. A married woman may be a partner in business, and sued in an action at law.*

The defendant below was a married woman residing with her husband, and with his consent carrying on the business of a retail grocery store in her own name, in conjunction with one Chase, who was a silent partner. The husband had no interest in the business, but was

acting as clerk for the firm. The account for the collection of which suit was brought, was for goods purchased by appellant in her own name, to be used in her business. No plea in abatement for the non-joinder of Chase was filed. The Court, after discussing the act of 1861 and of 1869, giving to a married woman her own earnings, and the decisions of the court construing the same, say, in this case, the goods were purchased by the appellant, to be used in her business as proprietress of a retail grocery store. There is no pretense that they were purchased by the husband, or for his use, or under such circumstances that the law will infer his liability. They became appellant's sole and separate property, and either she must be held to pay for them, or it must be held that while married women have the right to contract and acquire property, they shall nevertheless be exempt from complying with their contracts made for that purpose.

2. CHANGE IN LAW—DUTY OF COURT.—The legislative department has seen fit to make a radical change in the common law relating to the property rights of married women, and it is the duty of the court to enforce the law as they have made it.

3. CONSTRUCTION OF LAW AS TO EARNINGS AND PROPERTY.—That it is not to be supposed that it was within the contemplation of the legislature, in conferring upon married women the right to receive, use and possess their own earnings, and to sue for the same in their own names, that it was to be limited to such only as should result from manual labor, or that in conferring upon them the right to have their separate property under their sole and separate control, and to hold, own, possess and enjoy the same as though they were sole and unmarried, they were to be restricted in its use or disposition. That the right to control is indispensable to the acquisition of earnings, and to the unrestricted possession, control and enjoyment of property.

4. RIGHT TO EARN MONEY IN TRADE.—The court perceives no reason why a married woman, invested with these rights, may not, at least, with the consent of her husband, earn money in trade as well as at the wash-tub or with the sewing machine; why she may not as well be the proprietress of a grocery store as of a farm; contract debts for goods to be used in trade as for animals and farming implements or lands or farm labour.

5. EFFECT OF REMOVING COMMON LAW RESTRICTIONS.—That in removing the common law restrictions upon her right to acquire and to control her property, the legislature have left her to determine, at all events when her husband shall not object, from the dictates of her own judgment, in what lawful pursuits she will engage, and whether it shall be prosecuted alone or in conjunction with others.

6. WHEN JUDGMENT MAY EXCEED DEMAND ON SUMMONS.—That interest may be added, even if it makes the judgment exceed the demand endorsed on the back of the summons by the justice.—ED. LEGAL NEWS.

The opinion of the court was delivered by Scholfeld, J.

The principal ground upon which a reversal of the judgment of the court below is asked, is, that the appellant is, and was, when the cause of action accrued, a married woman, residing with her husband; and that the judgment should, therefore, have been against her husband and self jointly, and not against her individually.