

The Woman Juror Law

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Recommended Citation

Reardon, Estelle C. (1937) "The Woman Juror Law," *St. John's Law Review*: Vol. 12 : No. 1 , Article 31.
Available at: <https://scholarship.law.stjohns.edu/lawreview/vol12/iss1/31>

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upon the breached accord. The debtor may compel the creditor to acknowledge the promise of suspension of the original claim contained in the written accord, so that he may have the time allotted to him to perform his promises.¹⁶ If the creditor breaches his promise to abstain from prosecuting his original action the debtor may defend the action by pleading the executory accord, or may counterclaim for damages for the breach, or may institute an original action founded on the written unperformed agreement.¹⁷

The change decreed by the legislative act brings the doctrine of *unexecuted accord* into the rule of "Mutuality of Obligation". No longer is the promise of the creditor *illusory*. Mutual rights and duties have been settled upon the parties to the executory accord, which the law can enforce by appropriate action.

ARTHUR GREENSPAN.

THE WOMAN JUROR LAW.—The Legislature of the State of New York has recently enacted the so-called Woman Juror Law.¹ By this enactment several sections of the Judiciary Law² are amended, in relation to the qualifications and exemption of women as jurors. Whereas, in relation to the qualifications of trial jurors, Section 502 of the Judiciary Law formerly read:

"1. A male citizen, and a resident of the county",

it is now provided:

"1. A citizen of the United States, and a resident of the county."

And so by the deletion of the one word "male" a vast change in the administration of justice has been effected, and the possible number

¹⁶ RESTATEMENT, CONTRACTS (1932) § 417: "If the creditor breaks such a contract, the debtor's original duty is not discharged. The debtor acquires a right of action for damages for the breach, and if specific enforcement of that contract is practicable, he acquires an alternative right to the specific performance thereof. If the contract is enforced specifically, his original duty is discharged."

¹⁷ *Chandler v. Pomeroy*, 143 U. S. 318 (1891); *Matter of Freeman*, 117 Fed. 680 (N. D. N. Y. 1902); *Deen v. Milne*, 113 N. Y. 303 (1889); *Bandmann v. Finn*, 185 N. Y. 508 (1906); *Cook v. Richardson*, 178 Mass. 125, 59 N. E. 675 (1901).

¹ Laws of 1937, c. 513. The bill was introduced by Mr. Kleinfeld of Brooklyn on Jan. 11, 1937, was sent to the Governor on May 7, was signed by him on May 24, and went into effect on Sept. 1. Several bills relating to the same subject had recently been introduced, both by Miss Byrne of the Bronx and Miss Todd of Westchester, but all were defeated.

² N. Y. CONSOL. LAWS, c. 30.

of those citizens who might be qualified to serve as jurors is greatly increased.

Subdivision 3 of Section 502, requiring property qualifications of jurors, has also been amended. Formerly it read: ³

“Assessed, for personal property, belonging to him, in his own right, to the amount of two hundred and fifty dollars, or the owner of a freehold estate in real property situated in the county, belonging to him in his own right, of the value of one hundred and fifty dollars; or the husband of a woman who is the owner of a like freehold estate, belonging to her, in her own right * * *.”

It now reads:

“Assessed for personal property, belonging to him or her, in his or her own right, to the amount of two hundred and fifty dollars; or the owner of a freehold estate in real property, situated in the county, belonging to him or her in his or her own right of the value of one hundred and fifty dollars; or the husband or wife of a person who is the owner of a like freehold estate, belonging to said person, in his or her own right * * *.”

There is yet another important change in the Judiciary Law,⁴ whereby is added to the list of classes of persons who, although qualified, are entitled to exemption from service as a trial juror upon claiming exemption therefrom, the classification of “a woman.”

Thus, the effect of this recent legislation is to permit women to serve as jurors, provided they have the necessary qualifications, which qualifications have been made exactly the same as those required of male jurors. However, it is important to note that the effect of this law has not been to put men and women on an equal basis with reference to jury service, for the law permits any woman to claim exemption merely on the ground of sex. In passing this legislation permitting women to serve as trial jurors, New York has been but

³ N. Y. CONSOL. LAWS, c. 30, § 502. The following statutes, whose wording is the same as that quoted here, have also been amended by c. 513, §§ 4, 6, Laws of 1937: (a) Subdivisions one and three of section five hundred and ninety-eight of chapter thirty; and (b) Subdivisions one and three of section six hundred and eighty-six of the same chapter.

⁴ Laws of 1937, c. 513, §§ 3, 5, 7. These sections of the Act amend the following sections of Chapter 30 of the Consolidated Laws: section five hundred and forty-six, as added by chapter eight hundred and ninety of the laws of nineteen hundred thirty-six; section six hundred and thirty-five, as added by chapter eight hundred and ninety of the laws of nineteen hundred thirty-six; section seven hundred and twenty, as added by chapter eight hundred and ninety of the laws of nineteen hundred thirty-six.

following in the footsteps of some of her more progressive sister-states. Both New Jersey and Pennsylvania, for example, have had women as jurors for some time; but their laws differ from the present law in our own state, in that they do not permit a woman, at her own discretion, to decide whether she will or will not serve as a juror. In these two states, the law in this respect treats men and women impartially, so that a woman who possessed all the qualifications deemed necessary by the law may not thereafter escape jury duty merely because she is a woman.

Today the majority of the legal disabilities once imposed upon women have been discarded, and, in return for the removal of these disabilities, the Legislature has compelled women to give up some of the special privileges in which they have long been indulged by the law. At the present time, women pay taxes for the support of our government at the same rates as do men, women legislators help to make our laws, women lawyers argue in our courts, women are governed by the same laws as are men and are tried for breaking them in exactly the same manner. Is it not then an anachronism to bar them from jury service merely because of their sex?

Those who do not look with favor upon the law because it does not go far enough argue that, since women have substantially the same rights and privileges under our laws as do men, the same correlative duties should be imposed upon them, and that there is no more logical reason for exempting "a woman" from jury service than there would be for exempting "a man." It is conceded that in some special instances, such as small children to be cared for, or illness in the home, or some similar domestic situation, women should be excused from jury duty, but there should be no blanket right of exemption for all women. And it is further argued that the tendency will be for the most competent and intelligent type of woman to take advantage of the exemption—the woman in business, the teacher, the home-maker with many domestic tasks,—while those least fitted to serve will take advantage of their new privilege—the morbidly curious, the idle woman who finds time hanging heavily on her hands, the seeker of thrills.

It would seem that the logic of the case lies with those who contend that the law does not go far enough. It is to be hoped that in the near future the Legislature will complete the work it has started, by following the more progressive states in placing jury service for men and women on exactly the same basis.

ESTELLE C. REARDON.