of a corporation, issued stock to themselves in violation of a permit requiring sales to be made for cash, and negotiated the stock to an innocent purchaser, the company was denied recovery for the purchase price.[11]

However salutary the effect of the Blue Sky laws, it is submitted that the courts should halt in carrying them to the logical extreme, and in cases where it is obvious that the purchaser, through participation in the company's affairs, has adequate knowledge of the objects and financial status of the enterprise, he should not be protected.[12] It would seem that the view taken in the instant case is wholly justified.[13]

S. J. B.

DOMESTIC RELATIONS—LIABILITY OF HUSBAND FOR WIFE'S FUNERAL EXPENSES—[Missouri].—The plaintiff filed a claim in the probate court against the estate of a deceased wife for services rendered at her burial. In denying recovery the court *held:* "An undertaker is not entitled to recover a wife's funeral expenses from the wife's estate, where the wife predeceased her husband and the husband's estate was ample to cover expenses."[1]

At common law a husband alone is bound to pay for the burial of his deceased wife in a manner suitable to his station in life,[2] and her estate is not liable for such expenditures.[3] The courts have explained this obligation by referring to the husband's duty to supply his wife with necessaries[4] and to his right to recover damages against anyone who wrongfully interferes with her body.[5]

In most jurisdictions, the administration statute provides that funeral expenses shall have priority over all other claims.[6] The effect of such a provision upon the liability of the husband for his wife's burial expenses

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11. Coast Amusements Inc. v. Stineman et al., 115 Cal. App. 746, 2 P. (2d) 447 (1931). But the Supreme Court of South Dakota took a more liberal view in holding that participation in stockholders' meetings and receipt of dividends for several years estopped the purchaser in a suit by the corporation on a note given in payment for the stock. Winfred Farmers Co. v. Smith, 47 S. D. 498, 199 N. W. 477 (1924).

12. Mere connection with the corporation in a minor capacity, of course, should work no estoppel. Otten v. Riesener Chocolate Co., 82 Cal. App. 83, 254 Pac. 942 (1927) (night watchman); Mac Donald v. Reich & Lievre, 100 Cal. App. 736, 281 Pac. 106 (1929) (saleswoman).

13. Norton v. Lamb, 62 P. (2d) 1311 (Kan., 1936).

1. Kent v. Knight, 98 S. W. (2d) 318 (Mo., 1936).

2. Smyley v. Reese, 53 Ala. 89, 25 Am. Rep. 598 (1875); Sears v. Gidday, 41 Mich. 590, 2 N. W. 917, 32 Am. Rep. 168 (1879).

3. Watkins v. Brown, 85 N. Y. Supp. 820 (1903); Long v. Beard, 20 Ky. Law Rep. 1036, 48 S. W. 158 (1900).

4. Scott v. Carothers, 17 Ind. App. 673, 47 N. E. 389 (1897).

5. Kent v. Knight, supra, note 1, l. c. 318.

6. R. S. Mo. 1929, sec. 182, which deals with allowances and classification of demands against a decedent's estate; Ill. Smith-Hurd, Rev. Stats. of 1935, chap. 3, sec. 71; Crawford & Moses, Digest of the Stats. of Ark. (1921) sec. 97; Carroll's Ky. Stats. (1930) sec. 3868; Williams, Shannon, Harsh, Code of Tenn. (1932) sec. 8286.

when she leaves a separate estate, is in dispute.[7] The slight weight of authority favors the construction that the intention of the legislature was to render funeral expenses an absolute charge upon all estates, the same as the necessary expenses of administration.[8] In such jurisdictions the estate of the deceased wife, therefore, is held primarily liable for her funeral expenses.[9] This interpretation conforms with the modern tendency to enlarge the rights and liabilities of married women as to their own property.[10] Another line of cases, without denying the common-law liability of the husband for the wife's funeral expenses, holds, in the absence of a statute directing generally the payment of such expenses out of the decedent's state, that the husband is entitled to be reimbursed out of the wife's estate for her funeral expenses paid by him.[11]

The minority of the courts hold that the administration statute is only designed to assure the payment of certain socially important debts in preference to the rights of creditors and heirs of a decedent's estate, and not to abrogate any rights or duties which otherwise existed.[12] The husband under this view, retains the primary obligation to furnish his wife with a decent burial,[13] but if he is insolvent, or if collection against him is impossible,

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7. For general treatment of this problem see, 13 R. C. L. 1213; Note, 6 L. R. A. (N. S.) 917 (1907).

8. Nashville Trust Co. v. Carr, 62 S. W. 204 (Tenn., 1900); Schneider v. Breier, 129 Wis. 446, 109 N. W. 99 (1906); Constantinides v. Walsh, 146 Mass. 281, 15 N. E. 631 (1888); Morrissey v. Mulhern, 168 Mass. 412, 47 N. E. 407 (1897); McClellan v. Filson, 44 Ohio St. 184, 5 N. E. 861 (1886).

9. Supra, note 8. The duty of the wife under this view is primary, but if she is unable to pay, the husband is liable. As said in Nashville Trust Co. v. Carr, supra, note 8, l. c. 206, "But, if the liability is thus imposed upon the married woman's estate, it cannot be altered by the fact that the estate of the husband would also be liable"; Schneider v. Breier, supra, note 8, l. c. 449.

10. This is clearly illustrated in McClellan v. Filson, supra, note 8, l. c. 865, where the court said: "It appears plain by this that the relation of the husband and wife as to property have greatly changed in this state by statute, and that much of the reason for the rule that the husband's liability should be held to be so exclusive as to make impossible the subjecting of the wife's separate estate to payment of expenses resulting from her necessities have vanished with the change. If the reason for the rule is in large measure gone because of these statutes, we may with some willingness be ready to see the rule, by virtue of other statutes, in equal measure, disappear."

11. Re Very, 53 N. Y. Supp. 289 (1898); Re Smith, 41 N. Y. Supp. 1093 (1896); Note, 6 L. R. A. (N. S.) 917, 918 (1907).

12. Reynolds v. Rice, 224 Mo. App. 972, 27 S. W. (2d) 1059 (1930); Gustin v. Bryden, 205 Ill. App. 204 (1917); Beverly v. Nance, 145 Ark. 589, 224 S. W. 956 (1920); Kenyon v. Brightwell, 120 Ga. 606, 48 S. E. 124 (1904); Ketterer v. Nelson, 146 Ky. 7, 141 S. W. 409 (1911).

13. Supra, note 12. As said in Reynolds v. Rice, supra, note 12, l. c. 978: "Our view is that the purpose of these sections was to establish priority and procedure. There is nothing in them, nor in the married women's acts which in any way intimates a legislative intent to alter or change in any manner the common law applicable to the duties of the husband."

then the statute renders this expense a preferred claim against the wife's separate estate.[14]

Other legislative enactments which have subjected the wife to liability for necessaries have been consistently construed to create a liability secondary to the duty of the husband. Thus, a provision in the Missouri statutes providing that the personal property of a married woman shall be liable for the debts of her husband created for family necessaries[15] is applicable only when the husband is unable to pay,[16] and the wife may subsequently maintain an action against the husband for recoupment.[17] In other jurisdictions, Family Expense statutes, which provide that the estate of the wife may be held for the expenses of the family, have been similarly interpreted.[18] In the case of *In re Estate of Wood*, the Supreme Court of Missouri emphatically announced that the Married Woman's Act and related legislation have not diminished the common-law duty of the husband to provide the wife with necessaries.[19] It seems, therefore, in the light of this general legislative attitude,[20] and of the apparent intent and purpose of the administration statute, that this enactment should not modify the husband's primary obligation to pay the burial expenses of his wife. Of course, where the wife desires to assume the obligation of her funeral expenses, a provision in her last will to that effect will place the ultimate liability upon her separate estate rather than upon the husband.[21]

M. J. G.

FAMILY LAW—THE PRESUMPTION IN FAVOR OF THE VALIDITY OF THE SECOND MARRIAGE IN CIVIL CASES—[Missouri].—Two recent St. Louis Court of Appeals cases,[1] *De Ra Luis v. Carter Carbureter Co.* and *Ribas v. Stone and Webster Engineering Co.*, raise one of the most illusive conceptions in the field of family law—the presumption of the validity of a second marriage. Cases involving this presumption arise most often under the work-

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14. Carpenter v. Hazelrigg, 103 Ky. 538, 45 S. W. 666 (1898); Gould v. Maulahan, 53 N. J. Eq. 341, 33 Atl. 483 (1895); Fogg v. Halbrook, 88 Me. 169, 33 Atl. 792 (1895).

15. R. S. Mo. 1929, sec. 3003.

16. Nunn v. Carroll, 83 Mo. App. 135 (1900); Megraw v. Woods, 93 Mo. App. 647, 67 S. W. 709 (1902).

17. Madden, *Persons and Domestic Relations* (1931) 179-204; Brauwere v. Brauwere, 203 N. Y. 460, 96 N. E. 722, 38 L. R. A. (N. S.) 508 (1911); Kosanke v. Kosanke, 137 Minn. 115, 162 N. W. 1060 (1917).

18. Note, 13 A. L. R. 1396 (1921); Hyman v. Harding, 162 Ill. 357, 44 N. E. 754 (1896); Wilson v. McCarthy, 48 Cal. App. 697, 192 Pac. 337 (1920).

19. 288 Mo. 588, 600, 232 S. W. 671 (1921); See also, Rudd v. Rudd, 318 Mo. 935, 2 S. W. (2d) 585 (1928).

20. Supra, notes 12 and 13.

21. Wheeler's Estate, 4 Pa. Dist. Rep. 265 (1895); Re Stadtmuller, 96 N. Y. Supp. 1101, 1102 (1905); Gustin v. Bryden, 205 Ill. App. 204 (1917).

1. 94 S. W. (2d) 1130 (Mo. App., 1936); 95 S. W. (2d) 1221 (Mo. App., 1936). The cases were tried by the same Commissioner and Judges on June 2 and July 7, respectively.