

of her husband. (Section 5792, R. C. M. 1921.) A livestock brand is property. It can be transferred only by act of the owner or upon order of a court of competent jurisdiction. While a surviving husband may have certain rights to the property of the wife upon her death, until that event occurs, he has no more right to her property than he has to the property of any other person.

We do not decide whether the husband in the circumstances has any other remedy or relief as it is not in our province to do so. It is my opinion that neither the Livestock Commission nor the secretary thereof has jurisdiction to adjudicate the husband's rights to this property and to transfer the brand to him. Public officers have only such power and authority as is vested in them by law. I find no statutory or legal authority empowering the secretary of the Livestock Commission to make the transfer requested.

Opinion No. 219.

**Livestock—Brands—Husband and
Wife—Livestock Commission.**

HELD: Neither the Livestock Commission nor the secretary thereof has jurisdiction to adjudicate a husband's rights to a wife's livestock brand and to transfer the brand to him.

December 26, 1935.

Mr. Paul Raftery
Secretary, Livestock Commission
The Capitol

You have submitted the question whether your office has authority to transfer the livestock brand of a wife to her husband, upon the affidavit of the latter reciting that the wife deserted him in 1932; that he does not know her whereabouts; his belief that she will never appear again or be known of and that it is necessary to dispose of the horses and cattle bearing her brand.

In this state a married woman may own separate property in her own name and may even transfer or convey her property without the consent