

house; (i) or the general assembly may, without prejudice, and for beneficial purposes, lend its aid to supply defects in an agreement which could not be supplied by any judicial proceeding without the help of such an enactment; although there existed sufficient evidence of the assent of the party; (j) or, it may, without injuriously affecting the interests of any one, but for the benefit of all, authorize a sale, a settlement or the disposition of an estate to be confirmed or made, which was impracticable, according to the established rules of law, by reason of the infancy, (k) the coverture, (l) the lunacy, (m) or the alienage (n) of one or more of the parties concerned; or it may, without prejudice, authorize the making of leases; (o) or the execution of a power; (p) or the making provision for a wife or children; or the selling of estates to pay debts or the like. (q)

A contract of marriage is, in many respects, so highly important in its nature as not only to involve the interests and happiness of the immediate parties, and to require the free consent of a man and woman who have a perfect bodily (r) and mental capacity to contract; (s) but, it is a contract to which society is a party, and in which it has a deep interest; and on that account it is, perhaps, that a marriage, which has been fairly and legally consummated, cannot be dissolved by a judicial determination, founded on any subsequent breach of its terms, without the consent of the community expressed by its representative legislature, or by the supreme authority of the state. The spiritual court, in England, and some of the courts of justice of Maryland, have been clothed with authority to determine on the validity of a contract of marriage; yet they cannot divorce, from the bonds of matrimony, for any cause *subsequent* to the marriage; for, if there has been a valid marriage, those tribunals are not competent to rescind it; so that a

---

(i) 1807, ch. 76 and 119.—(j) *Kame's Pri. Equi.* b. 1, pt. 1, s. 4; 2 *Sugd. Pow.* 97; 1800, ch. 54; 1801, ch. 53 and 96; 1802, ch. 37; 1805, ch. 68; 1807, ch. 5.—(k) *Blois v. Hereford*, 2 *Vern.* 501; *Attorney-General v. Day*, 1 *Ves.* 224; *Taylor v. Philips*, 2 *Ves.* 23; *Hearle v. Greenbank*, 3 *Atk.* 712; 1800, ch. 54; 1803, ch. 72 and 90; 1819, ch. 38.—(l) *Harvey v. Ashley*, 3 *Atk.* 613; 1802, ch. 8; 1813, ch. 134 and 153; 1818, ch. 58; 1822, ch. 111.—(m) *Shelf. Lun.* 372; 1784, ch. 1; 1805, ch. 56; 1809, ch. 41; 1821, ch. 210.—(n) 1800, ch. 68; 1807, ch. 10, 11 and 86.—(o) 1802, ch. 40.—(p) *Hearle v. Greenbank*, 1 *Ves.* 305; 1826, ch. 163; 1827, ch. 73.—(q) *Ridout v. Plymouth*, 2 *Atk.* 105; *Buchanan v. Hamilton*, 5 *Ves.* 722; *Wal-lwyn v. Lee*, 9 *Ves.* 24; *Com. Dig. tit. Parliament*, H. 5; 1804, ch. 11; 1813, ch. 134; 1815, ch. 151.—(r) *Sabel's Case*, *Dyer*, 179; *Bury's Case*, 5 *Co.* 99.—(s) 1 *Blac. Com.* 439.