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# The Legal Wrongs of Married Women

By

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PAMPHLET

PUBLISHED BY WOMEN'S FREEDOM LEAGUE

144, HIGH HOLBORN, W.C. 1.

PRICE 3d

346.05134

0134 Mrs. A.M. Ricotti



REFERENCE

F14746  
344.106134  
346.0134  
3900 ~~EX~~ 236731

"The Gods grow angry with your patience, 'tis their care  
And must be yours that guilty men escape not."

BEN JOHNSON.

"I married a man of the Croydon Class  
When I was twenty-two,  
And I vex him, and he bores me,  
Till we don't know what to do!  
It isn't good form in the Croydon Class  
To say you love your wife,  
So I spend my days with the tradesmen's books,  
And pray for the end of life.

\* \* \* \* \*

And for all my labour of love and life  
I shall be clothed and fed,  
And they'll give me an orderly funeral  
When I'm still enough to be dead."  
ANNA WICKHAM.

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## The Legal Wrongs of Married Women.

By MARGARET WYNNE NEVINSON, J.P., L.L.A.

(St. Andrew's)

Most of us who worked through the Suffrage days remember how often our efforts to preach the gospel of "Votes for Women" were frustrated by hysteric exhortations to "Go 'ome and get married."

On one occasion a beery gentleman with the voice of a Stentor nearly collapsed with apoplexy as he chanted his refrain. When at length he stopped for lack of breath, the veins of his forehead dangerously swollen, the quiet little chairwoman in the cart observed sweetly: "We are all married." The astonishment on his face when he saw the confirming evidence of wedding-rings was quite genuine as he stammered bewilderedly: "Then whatever are you standing there for?"

The complacency of the average man as to the perfect content that marriage is supposed to bring to all women shows the strange blindness and insensibility to the ideals of womanhood, and the bitter indignation and disillusionment of those who, caught in the steel trap of marriage, find how the law supports the law-maker in nearly every way. The great speech that Euripides puts into the mouth of Medea is still true to-day, though wives are no longer put up for sale:

"Of all things that have life and sense we women are the most wretched; for first with an exceeding sum we must purchase us a husband, and receive a lord over our persons (for this is even a more grievous evil than the former): and in this, too, there is great risk whether we get a bad master or a good; for divorces are not honourable to women, nor is it possible to repudiate a husband. . . . Then should our husband dwell happily with us, not violently imposing the yoke, 'tis an enviable life; but if not death were better. For when a man is weary of the society of those at home, going out he relieves his heart of its loathing, betaking himself to some friend or comrade; but we are forced to look to one person alone. And they say of us that we live a life of security at home whilst they do battle with the spear, speaking foolishly; for rather would I go three times to battle than once bear the pangs of child-birth."

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## LAW OF COVERTURE.

This law is of ancient origin, adopted from early Roman times, where the paterfamilias was always head of the household; no one else had any legal rights or liberty, neither wife, child, ox nor ass, nor slave. Later on we took on some Germanic customs in our treatment of women, brought over by the Saxons. Tacitus comments on the high position of women amongst the Germanic tribes: "they consult their women in all matters concerning peace and war"; and it is true that these barbarians held women in higher respect than the Romans had done: they believed in our insight and spiritual vision, and credited us with the gift of prophecy. This reverence, however, in nowise forbade the sale and barter of daughters and wives by men, their masters; the dooms or statutes of Ethelbert and Alfred refer to woman as a *thing* rather than a *person*, so much so that if the husband were displeased with the "goods delivered," he could return the lady to her protector and owner and have his money back again.

"A king shall with cattle buy a queen," says one Saxon chronicler, and the custom still lives in the Anglican marriage service—"Who giveth this woman to this man?"

## WIFE-SELLING.

The tradition of wife-selling has lived on in England until quite recent times, and there are many authentic cases last century on record, especially at Smithfield, London, and New Cross, Manchester. Etiquette demanded that the wife should be brought into open market with a halter (preferably a new one) round her neck, the minimum price should be one shilling, and the same wife must not be sold more than once by the same husband. This simple custom, unrecognized by the law, seems to have been regarded as a democratic form of divorce, and the husband considered himself free to marry again.

The last authenticated case occurred at a County Court as late as 1881, when a woman asserted that she had been sold by a husband to another man for twenty-five shillings. She carefully preserved the stamped receipt, so that "no one should accuse her of living in adultery."

## PRESENT ILLOGICAL POSITION OF MARRIED WOMEN

### UNDER COVERTURE.

It is strange that, though women are now voters, Members of Parliament, and Justices for the Commission of the Peace, they are still under the shadow of this strange old tyranny. A woman sitting in the House of Commons making the laws of her country

a Justice on the Bench administering them, are still, if married, under the control and rule of their husbands; they have no parental rights over the children of their body, and no voice in their education and up-bringing, and they are not responsible for their own crimes or torts (short of murder and treason) if committed in the presence of their husbands.

## WOMAN THE SPOILT CHILD OF THE LAW.

We are told often of our privileged position under the law, and that we ought to rejoice in having husbands responsible for our wrongdoing—for our tongues should we speak libel, for our pens should we write it, for our feet should we trespass, for our hands should we fight or scrap with our neighbours. But most of us to-day have a passion for justice, a devotion to logic; we have no use for spoilt children under the law or anywhere else; we are quite ready to bear the penalty of our own torts, and should hate to see even the worst husband imprisoned for our offences. The law seems to forget that some women are not so easy to coerce, as Adam found out to his cost; the observation of humanity had discovered that the grey mare was often the better horse before the cry of "Votes for Women" was heard in the land.

"It was all Mrs. Bumble—she *would* do it," said Mr. Bumble, when accused of the sale of jewellery.

"That is no excuse," replied Mr. Brownlow; "you were present on the occasion of the destruction of these trinkets, and indeed are the more guilty of the two, in the eye of the law; for the law supposes that your wife acts under your direction."

"If the law supposes that," said Mr. Bumble, ". . . the law is a ass, a idiot. If that's the eye of the law, the law is a bachelor; and the worst I wish the law is, that his eye may be opened by experience—by experience."

The other day a lady of wealth, a reckless and capable gambler—quite equal to "plunging" on her own without any influence and coercion on the part of her husband—was acquitted in Court of her part in a mean conspiracy, defended by a clever lawyer, who trotted out the law of coverture and the ancient fiction that she was acting under the direction of her husband, who was duly sentenced. This abominable miscarriage of justice brought even lawyers to adopt the more progressive and common-sense views of Mr. Bumble in 1840.

A learned but belated Committee of experts sat on this anachronism, and recommended to the Lord Chancellor that the presumption of a wife's coercion by a husband be totally abolished in criminal law.

As a matter of fact, in the Courts of Summary Jurisdiction poor women who tell their neighbours their honest opinion of them over the garden wall, who smack other people's children, and fight



their enemies, or tear up their washing in the backyard, find themselves fined or imprisoned without any inquiry as to the presence of husbands and their responsibilities for such torts. Justices are not as a rule learned in the law, and act with common sense and some respect for modernity; no one would be more surprised than a working woman (who so often in these evil days is the breadwinner as well as the child-bearer) could she afford a lawyer and hear that she was under coverture and not responsible for her offences.

### WIFE NOT A PARENT.

It is amongst the poor, however, that the law of parentage works so cruelly. Nothing is more terrible than the position of the deserted wife, compelled to enter the workhouse and suffer the agony and humiliation of having her children taken away from her and sent by the Guardians to distant poor-law schools, with no rights or recognized relationship to them.

Judge Neil, of Illinois, watching a scene like this in Court, observed: "Would it not be more kind, more humane, if you took this woman out behind the Court-house and shot her before she realized that her children were all to be taken away from her for ever?"

He went on to suggest that the money paid out to the various schools should be paid for keeping the home together, and was told it was against the law.

"Let's change the law," was his answer. He went to the Legislature of Illinois, and without a single dissenting vote the reform was made in 1911, since which time it has been adopted in nearly every state in America.

Deserted wives are treated there with sympathy and respect; each case is listened to with care and attention by trained and competent women probation officers, the home is kept together, and no trouble nor expense is spared to find the delinquent husband and bring his responsibilities home to him. This method of dealing with the problem is not only more humane, but works out more cheaply in the end. Poor Law education is proverbially wasteful and unsatisfactory, and children brought up in the natural human surroundings of a mother's love and care make better citizens than the step-mothered children of the State.

### DIVORCE LAWS.

England, the land of the Bible, suffers also from an unequal and unjust Divorce law which disgraces no other country. "Thou shalt not commit adultery," says the law given on Sinai, but in England we ought to add the note, "Women only."

This is a cutting from the *Observer*, about ten or twelve years ago, when the Mormons were preaching their doctrine of polygamy, and is headed—

### "WORSE THAN THE MORMONS.

"Harriet Meadows was charged at Willesden with being drunk and disorderly. The woman, it was stated, annoyed her husband in the street, and refused to desist when cautioned by the police. Prisoner told the Magistrate that her husband was the cause of her downfall. She came of a good, honourable and noble family, and he had broken and degraded her and driven her to drink. After they had been married twenty-five years he brought home another 'wife,' a girl of twenty whom they had known since she was a baby, and they all three slept in the same bed."

"The missionary said that the husband's conduct had undoubtedly caused the wife's downfall.

"The Magistrate, while sympathizing with the prisoner, said he must fine her five shillings."

The husband had committed no breach of the law. This little story told at street corners converted many to our cause, and once evoked from a woman listener the cry: "Don't tell the men any more, ma'am; you'll make them worse than they are."

Fortunately, all men are not traitors and adulterers, and most of them quite unconscious of the protection given to wrongdoing by the law, which caused a cynic to observe that "English marriage laws were made by profligates for profligates."

The Board of Guardians and the Police Courts are the places to study the parlous state of the victims of bad husbands.

### ENGLISH LAW DISCOURAGES MARRIAGE.

There is no doubt that English law discourages marriage. It is not legal to tax married women, as the law of 1842 has never been repealed, but the Inland Revenue calmly ignores that; "A wife's income is counted as her husband's for the purpose of income tax," their joint incomes are lumped together, bringing them possibly above the limit of rebate.

Couples living out of wedlock are taxed separately, and so often save considerably.

The Married Women's Property Acts are full of contradictions and absurdities like this, for until the law of coverture is swept away new reforms only create new absurdities. It is said: "The four Acts are a record of the dulness and hesitation of Parliament. Parliament tried to reform the law in accordance with ideas borrowed from equity, and some of the lawyers by whom Parliament was guided did not understand the principles of equity they were meant to follow."



We have had many examples lately of how municipal authorities hamper and restrict married women in their work; a woman doctor was lately dismissed in a London borough for the crime of marriage, and Education Committees have always discouraged, and in some places forbidden women to continue teaching after marriage, though many experts maintain that women who are mothers have more sympathy and skill in the management of small children than the single. Both France and America show more respect and reverence for marriage than our *soi-disant* Bible-loving country, and would not dream of dismissing employées for such an offence. All this interference with individual liberty must have a very demoralizing effect upon public morality, and must lead to deceit and double-living, even to driving sorely tempted young women into illicit connections.

#### GRANDFATHERS' & GRANDMOTHERS' RESPONSIBILITIES

It is not generally known that we are all responsible for our grandchildren should they come upon the ratepayers. This falls particularly hard upon grandmothers who a generation before had no responsibilities nor rights to their own children, and is another instance of the unjust and illogical laws of England towards women. It is a harrowing spectacle to see aged women dragged before the Guardians and badgered about their little earnings or savings, whilst the responsible paterfamilias goes off with another lady, sometimes to distant lands, sometimes to a neighbouring suburb, and founds a fresh illegitimate family (for which he has no responsibility), generally with impunity, though if caught he may be imprisoned or maintenance orders (also generally futile) made upon him.

#### FINANCIAL RESPONSIBILITIES OF WIVES.

In spite of coverture, married women are responsible for their husbands should the latter come upon the rates through sickness, or through lunacy or delirium tremens, brought on frequently by dissolute and drunken habits.

#### WIFE AND CHILDREN CAN BE LEGALLY LEFT PENNILESS.

In spite of the lie "with all my worldly goods I thee endow," a husband is not legally obliged to leave anything on his death to his wife and children, but is perfectly free to endow his mistress and illegitimate children with all his worldly goods. This, like

many unjust laws to women, is peculiar to England, but not to Scotland, and is the result of the Reformation and the influence of Henry VIII. The Reformation also gave us our marriage service, and inserted the word "obey"; the older Church demands no such promise (nor do the Jews), and, knowing the frailty of human nature, requires no fore-swearing about "loving and honouring," which must depend upon circumstances and behaviour.

No wonder thinking and conscientious women are driven to register offices against their will in their desire to speak the truth before the altar of God, particularly as changes in legislation make the vows more and more ridiculous. Under the Married Woman's Property Act it is often the wife who holds powers of endowment, and a penniless young man endows his bride (as one wittily remarked) with "a couple of collars and an odd sock."

#### OLD AGE PENSIONS AND COVERTURE.

When the Old Age Pensions Act was passed, a curious anomaly under the ever present curse of coverture was discovered: like our children, our tongues and other members, we had no right to a separate digestive apparatus. At that time no person was allowed to receive both state relief and parish relief, and as the slogan of the Poor Law is "Relief to the wife is relief to the husband," the wife, if under seventy, had to starve together with her mate on five shillings a week till she became seventy, or both had to go to the workhouse or make a demand still to have their "pauper" and vote-disqualifying parish bread, refusing the honourable state pension. On the other hand, if the wife reached seventy first, she could take the state five shillings, and the husband, being an independent being with a right to his own stomach and his outdoor relief, got on nicely till he too reached seventy. This anomaly had speedily to be put right, as old couples were slowly starving to death.

#### WIVES OF ALIENS.

The recent war has shown us the pitiful plight of British women married to aliens—husbands away in internment camps, destitute, starved and insulted, forbidden Old Age Pensions even when widows of one of our "noble Allies." A terrible and unjust punishment for falling in love at eighteen, especially when they saw German women married to Britons, not able to speak an intelligible word of English and boasting of the Kaiser's early victories, but still receiving Old Age Pensions and full benefits of British nationality.

This abomination in law was only passed in 1870, and after four years of emancipated womanhood still remains unrepealed.



## HOPES FOR THE FUTURE.

Many Bills are now before the House for the abolition of these cruelties—Guardianship of Infants, etc., Bill; British Nationality (Married Women); Separation and Maintenance Orders, etc. Bit by bit the ancient law of coverture is being eaten away by the erosion of modern legislation, but one cannot help regretting that when the learned counsel made their recommendations on the notorious Peel case they did not tumble the whole thing into the waters of Lethe. If women hold together in the coming election, we have won for ourselves the power to change these wrongs, and wipe off from the Statute Book there "laws which blaspheme and tyrannies which fetter."

## AUTHORITIES QUOTED.

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Stone's "Handbook for Justices."

"Law and the Woman," by Edward Abbott Parry.

"Observations on English Criminal Law and Procedure," by J. W. Jeudwine.

Various Encyclopædias and Newspapers.

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*Part of this pamphlet appeared in "Time and Tide" under the title "Modern Legislation and the Law of Coverture," and is republished by the courtesy of the Editor.*

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