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Monroe M. Sweetland
Cornell Law School

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The Property Rights
of
Married Women Under
The Recent Statutes.
by
Monroe M. ^{ask}Sweetland.

1870

LLM?

Prominent among the important changes in our laws of recent times is the change in the property rights of married women. Maine and Massachusetts were the first states to pass married women's enabling acts. Other states were not slow to follow and the year 1848, is marked as the beginning of a revolution as concerns the property rights of married women. Within the two years following 1848, New York, Michigan, Vermont, Alabama, Tennessee, Mississippi, Kentucky and New Hampshire had passed important enabling statutes and most of the other states had moved in the same direction.

Working in this country, we see the effects and influence of two ^{great} and important systems of jurisprudence, viz: the common law

system, of English origin and adopted in this country upon the organization of our government; and the civil law system, of Roman origin and adopted in a modified form, in the Spanish and French settlements in the United States.

To fully appreciate the extent of the change wrought by the modern statutes a brief examination of the of the common law property scheme and the civil law property scheme is of importance. At common law the legal existence of the wife was merged in that of her husband, her legal rights were suspended, not annihilated, during marriage. By marriage husband and wife became, in legal contemplation, one person and, as has been said that person, principally husband. It was the wife's legal duty to love, honor and obey her husband and to follow

him, she was bound to reside in the domicile selected by him. It was even held that his ante nuptial contract giving her a choice of residence was void. The husband was entitled to the custody and possession of his wife's person and to her society and could recover her from any person who obtained possession of her and damages; and this right was as fully recognized as was his right to recover a chattel and damages for withholding the same. He could restrain or chastise her and regulate and control household visitors to the extent of excluding her friends and relatives. Neither could be a witness for or against the other. The wife's personal property vested at marriage in her husband; her choses in action were his if he reduced them to possession; the income from her real property was his; her services and

Earnings belonged to him. The husband had the custody of the children. Upon the death of the wife her husband became tenant by curtesy, if issue of the marriage was born alive, and as such became entitled to a life estate in her real property. He was entitled to letters of administration on his wife's estate and to her personal property. Upon the death of the husband the wife if willing and competent was entitled to administration on her husband's estate, and one third of the personal property, if there are children; if no children one half. The widow took dower in her husband's real estate, her dower being the use of one third of her husband's real estate for life.

The husband was bound to support his wife and was liable for her debts contracted before marriage and for some of her contracts after marriage.

In legal proceedings her husband was sued alone or joined with her, for criminal acts done in his presence he alone was responsible.

The civil law system in its earlier stages was as severe and gave to the husband substantially the same power as the common law did. But there was a gradual advancement and marriage at the time when Roman jurisprudence attained its greatest development ceased to cost the wife her property. The law protected both husband and wife in the enjoyment of their property rights, the wife's property was alone responsible for her debts, and was not liable for her husband's debts. She could sue and be sued and contract in regard to her own property as if unmarried. The law allowed agreements in the nature of ante nuptial contracts which defined and determined

The property rights of husband and wife, growing out of the civil law system is the community property system. It views marriage as a kind of partnership, especially as to the property rights of the respective parties. This system is embodied in the codes of France and Spain; it was in force in the French colony of Louisiana, at the time of its acquisition by the United States and in the territory acquired by the United States from Mexico and Spain. It exists in a form more or less modified ⁱⁿ from Louisiana, Florida, Texas, California and Nevada.

The rules of the common law and of the civil law have been modified by statutes of the several states. All of them have in some degree lessened the disabilities of married women and were designed for the benefit and protection

of married women. The principal provisions of the of the several states, on this subject will be given in detail.

Alabama. By the constitution of 1875, the wife's separate estate includes property owned by her at the time of marriage and that acquired after marriage, and it belongs to her and is not liable for her husband's debts. The wife may sue or be sued alone for her antenuptial debts and her property is liable. By proceedings in the court of Chancery married women may become traders and manage their property as though unmarried. Wife may convey her separate estate by her husband joining in the deed. Upon the death of the husband the widow takes dower in his real estate. If there survive no issue of the marriage the widow takes half of the real and personal property; if issue survive she takes one-third; if more than

one and less than four children survive she takes a child's share in the personal estate; if more than four she takes a fifth part of the personal. Rev. Code § 2252. Arizona. Married women may contract concerning their separate property the same as if unmarried. A married woman's separate property includes that owned at the time of marriage and that acquired after marriage. Married women of twenty-one years and upwards may dispose of their separate property, without joining with their husbands, the same as though unmarried. They may sue and be sued concerning their separate property the same as though unmarried. They may become traders. Filing an inventory of the wife's separate property in the County Clerk's office is notice to the public and protects her from her husband's creditors. Laws of 1877 § 1969-1971.

Arkansas. The separate property of a married woman is her own absolutely and she may dispose of it the same as though unmarried. Her property is not subject to her husband's debts. She may contract, sue and be sued as though unmarried. The wife's separate property is not liable for her debts unless she contracts with special reference to it. Adams v Stillwell, 29 Ark. 346. The act of 1875, page 172, provides for the filing of an inventory of the wife's separate property; the effect of failure so to do, is to throw the burden upon the wife of showing, if questioned, it to be her separate property. A widow is entitled to dower in one-third of both the real and personal property of her husband. If there are no children she takes dower in one-half of his real and personal property.

California. The property owned by the wife at the time of marriage and property acquired after marriage by gift

bequest, devise, or descent is her separate property. Property acquired after marriage except as above provided belongs to the husband and wife in common as community property. The husband manages and has control of the common property. A wife may contract in regard to her separate property and dispose of it the same as if unmarried, except her conveyance must be acknowledged. She may sue without joining with her husband in actions relating to her separate estate. Husband and wife may make contracts inter se. By taking the necessary proceedings in court, a married woman may obtain authority to transact business as though unmarried. Neither dower nor curtesy in California. In case of divorce the common property is divided equally between husband and wife, except where the divorce is for

adultery or extreme cruelty, when the court will apportion the property. A woman is of age at eighteen.

Colorado. Married women may contract and do business concerning their own property the same as though unmarried. The wife may dispose of her real property without her husband joining in the deed. She may sue and defend in her own name without joining with her husband. Dower is abolished. Upon death of the husband the widow takes one half of his property and if there are no children she takes all his property absolutely. Women are of age at eighteen.

Connecticut. First married woman's act ^{passed} was in 1849. An important statute went into effect April 20, 1877. Women married before that date are under many of the common law disabilities. But by marriage since that date neither party takes any of

the property of the other except as survivor. Women married since April 20, 1877, may contract except with their husbands the same as if unmarried. The wife's property is liable for her debts but not for the debts of her husband. Women married before ^{1st} + date may by contract receive the rights of women married after that date. The contract must be recorded in the District Probate Office and in the Town Clerk's office of the town in which the parties thereto reside. Upon the death of the husband, the widow takes one-third of all his property both real and personal for life; if there be no will she takes such property absolutely; if no children survive she takes one-half of his property absolutely.

District of Columbia. Married women may contract and do business, except with their husbands; concerning

their separate estate the same as if unmarried. Married women retain their property and may dispose of it the same as if unmarried and may sue and be sued without joining with their husbands in all matters relating to their separate estate.

Delaware. By act of 1875, property owned by a married woman after April 9, 1875, continues to be her separate property and is not liable for the debts of her husband. She may prosecute and defend suits and make necessary contracts concerning her property, in her own name. Her property is liable for her debts. The widow takes a life estate in one-third of her husband's real estate, if there are children; if no children she takes one-half. The widow takes one-third of the personal property absolutely; if no issue survive she takes one-half; if neither kin nor issue survive she takes all.

Florida. A married woman retains her property free from control of her husband and not liable for his debts. She may convey or mortgage her property, providing her husband joins with her in the conveyance. By act of 1879, a married woman may obtain a license from the court of chancery which will enable her to become a free trader, and allow her to manage and control her property and contract sue and defend as though unmarried. The order or decree must be published in a newspaper and notices posted. Mclelland's Digest, pages 754-757. The widow takes dower in one-third of her husband's real estate for life and an absolute one-third of his personal property. She may at her option take a child's share in lieu of the above provisions, but she must make her election within one year from his death. If there are no children the widow may take all of the property of her deceased husband.

Georgia. The wife retains her separate property and it is not liable for her husband's debts. A wife cannot bind her separate estate by any contract of suretyship for her husband or any assumption of his debts. If the husband uses his wife's money for the payment of his debts and the creditor has notice of it, the consent of the wife is immaterial, she or her heirs may sue and recover for the money so used. 54 Ga. 543. The wife with the consent of her husband, published for one month in a newspaper may become a freetrader with all the privileges of an unmarried woman. The widow takes dower in one-third of all her husband's lands. On the death of the husband intestate the widow takes all the personal property if there are no children; if there are children or descendants of children she takes equally with them, unless they exceed two-thirds, in which case she takes one-third and the children the balance.

Idaho. The wife retains her separate property which includes the property owned by her at the time of marriage and property acquired after marriage, by gift, bequest, devise or descent. The husband has the management and control of his wife's property but cannot dispose of it except by an instrument in writing signed by both husband and wife. The law provides for the filing of an inventory of the wife's property owned at marriage. Property acquired after marriage, except by gift, devise or descent is community property. Neither dower nor curtesy exist. Upon the death of either party half of the common property goes to the survivor. The wife may have a trustee appointed to manage her property if her husband is incompetent or commits waste.

Illinois. A married woman may manage control and own property to the same extent that her husband can, but she

cannot carry on a partnership without the consent of her husband unless he has deserted her, or is in prison or incompetent. Neither is liable for the debts of the other. The wife is entitled to her own earnings. Transfers of property between husband and wife are not good as to third parties unless acknowledged and recorded. Women are of age at eighteen. Widow takes down in one third of her husband's land. When there are no children, one half of the real and all of the personal property goes to the widow; if issue of the marriage survives she takes one third of the personal property.

Indiana. A married woman holds her real and personal property as her separate estate. She may sue and defend, in actions concerning her separate estate and against her husband as if unmarried. The legal disabilities of the wife are abolished, except she cannot be bound as a surety. Her husband

must join with her in a conveyance of her lands. Dower and curtesy are abolished. Upon the death of the husband the widow takes one-third of the real estate absolutely, except where its value exceeds \$10,000, in which case she takes one-fourth in fee simple; if worth over \$20,000 she takes one-fifth in fee simple as against creditors only; but against heirs she takes one-third, except where there is but one child in which case she takes half. If the husband leaves him surviving neither parent or child, children or descendants of children she takes the entire estate. The widow takes one-third of the personal property. She may elect to take under the will or by law. Iowa. Upon marriage the wife retains her separate property which includes property owned at the time of marriage and that acquired by her after marriage. She may manage, control and convey

her property as if unmarried. She may sue and be sued without joining with her husband. The wife's earnings belong to her. Her property is not liable for his debts. A woman is of age at eighteen, but minority ceases upon marriage. Dower is abolished. The widow takes one-third of all her husband's property if there are children, if none she takes one-half.

Kansas. A woman's property rights are not abridged or impaired by marriage, she has the same property rights after marriage as before. The homestead is the absolute property of the widow and children, upon the death of the husband the widow taking half and the children the other half; if there are no children the widow takes the homestead. Personal property, exempt from execution, goes to the widow and children in the same

proportion as the homestead. If the husband dies without issue the widow takes all his property and her right is not affected by a will making a different disposition of the property. The wife may elect to take under the will or by law. *Bany v. Bany* 15 Kansas, 587.

Kentucky. Unless a married woman's husband has abandoned her, or she has come into the state without him, or she has taken the necessary chancery proceedings, she has no greater control over her separate estate than she has over the general estate, except that she may will her separate property or give a note that will bind it. Her property is not liable for her husband's debts. She may by taking equity proceedings obtain the right to become a trader, as a firm sole. The widow takes down in one third of her husband's real estate during

during her life. If the husband dies intestate she takes one-third of his personal property if there are children if no children, she takes one-half.

Louisiana. This state did not adopt the English common law but retained the French civil law. The laws of this state view marriage as a kind of partnership, property being held under the community system. Upon the dissolution of marriage each party retains what he or she brought into the relation and the profits are shared equally without regard to the amount contributed by either. The wife has a mortgage on her husband's property to secure to her payments of money made by her to him. The wife's property cannot be sold to satisfy her husband's debts. He is presumed to authorize her commercial contracts if he permit her to contract in her own name and she may bind her-

self and her husband. She cannot sue without the consent of her husband, and she cannot bind her property for his debts. Dower is unknown.

Maine. This was one of the first states to pass a married woman's act. The first act to remove the disabilities of married women was passed in 1821, and authorized the wife when deserted by her husband to sue and contract as if unmarried. The act of 1844 provided, that married women might retain control of their property or release control thereof to their husbands. By act of 1852, husbands were exempted from liability for their wives' ante-nuptial debts. A married woman, of whatever age may own, manage, sell and control personal property without regard to her husband; and also her real estate unless it was in some manner derived from him or he owned some interest in it. A married woman may sue and

defend the same as if unmarried. Her property is only liable for her own debts. Dower exists as at common law. The widow takes one-third of the personal property if issue of the marriage survives; if no issue, one-half; if neither issue or kindred she takes all.

Maryland. A married woman's property is not liable for the debts of her husband; he is not liable for her debts contracted before marriage. The wife may manage her property the same as if unmarried.

An obligation to bind the separate property of a married woman, in equity, must show some evidence of such intent, in order to be sustained, 16 Md. 554; 18 Md. 463. Dower exists as at common law. If there are children the widow takes one-third of the personal property; if no children but parent, brother, sister, nephew or niece of deceased the widow takes one-half of the personal; if

neither issue nor kin survive the wife, she takes all of the personal property. Rev. Code, art. 45. Massachusetts. Married women continue to hold their separate property after marriage with the same rights as before, except they cannot impair or destroy the husband's equity in their real estate without the husband's written consent. A married woman may contract, sue and be sued the same as if unmarried except with her husband. She may be executrix, administratrix, guardian and trustee without the authority or consent of her husband and as such she may bind herself and her estate. No transfer of property between husband and wife is allowed, except that a wife may receive by gift from her husband, as her separate property, wearing apparel, ornaments and articles necessary for her separate use not exceeding in value \$2000, but this must not be fraudulent as to the husband's creditors. The wife's property

is liable for her debts the same as if she were unmarried. A married woman doing business on her own account should file a certificate in the office of the Town Clerk or of the City Clerk where she does business, stating her name and the name of her husband, the kind of business and where conducted, unless this is done her property is liable for the debts of either. The husband may file such a certificate. Dower exists as at common law; if there are no children the widow takes the real estate of her husband, in fee, not exceeding \$5000. in value and a life estate in one half of the remainder. If there are children the widow takes one-third of her husband's personal property; if no children she takes the whole up to \$5000. and half of the excess above \$10,000. Statutes of 1885, C. 276.

Michigan. A married woman retains her property owned at the time of marriage and all that she may acquire afterwards

as her separate property the same as if she were unmarried. Her property is not liable for her husband's debts and she may dispose of it as though unmarried. She may sue and be sued without joining or being joined with her husband. Her contract of suretyship is not binding unless made in behalf of her separate ^{estate} and upon a sufficient consideration. By giving a specific pledge, such as a mortgage or other lien, for the debt of another a married woman's property may be bound. Her homestead rights and common law right of dower are retained. The widow may take of the personal property to the amount of \$450. The widow and children have their support from the personal property during the settlement of the estate. If upon the return of the inventory it appears that the value of the personal estate does not exceed \$150, after the above mentioned allowances the Probate Court may give the widow the whole. If there

remains a balance, after the forenamed payments, one-third of it goes to the widow and two-thirds to the children; if but one child survives the widow and child take equal shares; if no children the widow takes all if less than \$1000; if more then it is divided equally between the widow and next of kin; if neither child, children or next of kin the widow takes all.

Minnesota. Married women have the same property rights and liabilities as if unmarried, except that a married woman cannot convey her lands, other than by giving a purchase money mortgage or a lease for a term not exceeding three years, without joining with her husband in the conveyance. Dower and curtesy are abolished. The surviving wife or husband takes the homestead for life free from debts of the deceased and an undivided one-third of the other real property subject to

its proportionate share of the debts. After some minor provisions the personal descends the as the real property.

Mississippi. The common law disabilities of married women were abolished by an act which took effect November 1, 1880. Gifts and conveyances between husband and wife are void unless in writing, acknowledged, and recorded. All contracts between husband and wife in regard to compensation for services are void. If the husband conveys to his wife's property or income he becomes her debtor; the wife's remedy is lost after one year. Dower and curtesy are abolished. A husband is not liable for his wife's antenuptial debts. A surviving husband or wife takes the whole property if there are no surviving children or descendants of children; where there are children or descendants of children the surviving husband or wife takes a child's share in the property of the deceased.

Missouri. Married women hold their property through a trustee free from the debts or control of their husbands. The wife is liable for her ante nuptial debts. She may contract in her own name and bind her separate estate. The rents, issues, and profits of her property belong to her and cannot be taken for her husband's debts. He must join in the conveyance of her real property. The widow takes dower in one-third of her husband's real estate for life. She takes a child's share in the personal property; if the husband leaves no descendants she takes all of his ^{personal} property and one-half of the real property.

Nebraska. A husband acquires no interest in his wife's property by marriage. The wife may receive, hold, manage and convey property in all respects the same as if unmarried, except only that she cannot so convey property

received by gift from her husband. A married woman is not liable on her note or other contract unless made with reference to her separate property. Dower exists as at common law; if husband leave no issue the widow takes his real-estate for life; she takes a child's share in the personal property, otherwise the personal property is disposed of as the real property. A woman is of age at eighteen.

Nevada. By statute of 1873, the wife has full power over her property owned at the time of marriage and that subsequently acquired, during marriage, by gift, bequest, devise, or descent. All other property acquired during marriage is common property and is controlled by the husband. Upon death of the husband the homestead goes to the widow and the minor children, if any share with her; the community property goes to

the wife. Dower does not exist. Women are of age at eighteen.

New Hampshire. Married women have the same rights and remedies and are subject to the same liabilities in relation to property held or owned by them as if unmarried. They may sue or be sued on all matters of contract or tort the same as though unmarried. A married woman is not liable for the debts of her husband, nor bound by any undertaking for him or in his behalf. He is not liable for her ante nuptial debts; but he is liable for her debts contracted after marriage the same as at common law. Dower exists as at common law.

New Jersey. The real and personal property of a married woman which she owned at the time of her marriage or acquires after marriage by gift, grant, devise, descent or bequest and the rents

issues, and profits thereof belong to the wife and cannot be disposed of by the husband or taken for his debts. Since January 1, 1875, the wife has had the right to contract as if unmarried and her contract may be enforced by or against her in law or in equity, in her own name without joining her husband. She cannot be held to answer for the debt, default, or liability of another person. She cannot convey or incumber her real estate without joining with her husband. The husband's common law liability to support his family exists. The wife may make will her property as if unmarried. Husband and wife cannot contract with or sue each other. Dower exists. The wife takes one-third of the ^{personal} property of her deceased husband, if there are children; if no children or descendants of children she takes half of the personal estate.

New Mexico. A married woman retains

her separate property but the husband manages and controls it. There is no dower and property acquired after marriage, is held on the community plan. The property rights of the parties are much like those of equal partners. The wife becomes heir to all the acquired property if the husband dies without heirs. If there are children the wife takes half of the acquired property and one half of the remainder after paying the legacies.

New York. In an action or special proceeding, a married woman appears, prosecutes, or defends, alone or joined with other parties, as if she were single. It is not necessary or proper to join her husband with her as a party in any action or special proceeding affecting her separate property. Code of Civil Procedure § 450. A judgment for or against a married woman, may be rendered and enforced, in a

court of record or not of record, as if she was
 single. Code of Civil Procedure, §1206. In an
 action of slander, if the plaintiff is a married
 woman, the damages recovered are her separate
 property. Code of Civil Procedure, §1906. A married
 woman may maintain an action, in her own
 name, for damages, against any person or
 body corporate, for any injury to her person or
 character, the same as if she were sole. Laws of
 1860, Chap. 90, p. 158, §7. and amended by Chap. 172 Laws
 of 1862, p. 343. A married woman may contract
 to the same extent, with like effect and in the
 same form as if unmarried, and she and
 her separate estate shall be liable thereon,
 whether such contracts relate to her separate bus-
 iness or estate or otherwise, and in no case
 shall a charge upon her separate estate be
 necessary.

§2. This act shall not affect nor apply to
 any contracts that shall be made between hus-
 band and wife. Laws of 1884, Chap. 381, p. 189, §1 and §2.

Any transfer or conveyance of real estate hereafter made by a married man directly to his wife, and every transfer or conveyance of real estate hereafter made directly by a married woman to her husband, shall not be invalid because such transfer or conveyance was made directly from one to the other without the intervention of a third person. Laws of 1887, Chap. 537, p. 189. S1.

Husband and wife may buy and sell and deal with each other; and a naked gift from husband to wife will be sustained where creditor's rights are not affected. *Dwyer v. Durham*, 19 *Wesley Digest*, 47.

For a discussion of the legal remedies of married women see *Bennett v. Bennett*, 116 *N.Y.* 584.

The widow has dower in one-third of her husband's real estate during life. Widow takes one-third of the personal; if no child or legal representative widow takes half; if no descendants or next of kin the widow

takes all; if there be a brother or sister, nephew or niece and no descendants or parent the widow takes half of the surplus and the whole of the residue when it does not exceed \$2000; if the residue exceed that sum she shall receive in addition to her moiety \$1000.

If the intestate leave a widow and descendants, then the widow in addition to what she may be entitled to under previous acts shall be entitled to the use during life of an additional portion of the estate, not exceeding in value one thousand dollars, and if intestate shall leave no descendants the widow shall take such \$1000. absolutely. In addition to the allowance heretofore made if the \$100 exempt from appraisal and the widow's dower interest do not amount to \$1000. the appraisers are to set apart for the use of such widow and children or widow personal property which with the \$100 and her dower

interest will amount to the sum of \$1000.
 Laws of 1889 Chap 406. p. 151.

North Carolina. A married woman may hold property both real and personal free from the debts or obligations of her husband. Her property may be devised or bequeathed and with the written consent of her husband she may convey it the same as if unmarried. No married woman can make any contract affecting her property, except for her necessities, and personal expenses, or for the support of her family, or to pay her ante nuptial debts, without the written consent of her husband, unless she be a free trader. A married woman, twenty-one years of age or upwards may become a free trader, with the consent of her husband or by the terms of an ante nuptial contract. The usual method is by a duly executed and registered writing signed and acknowledged by the husband.

and wife: The widow's dower is one third in value of her husband's land. Her dower property is not liable for the payment of her husband's debts. If there are no children or representations of children the widow takes half of the personal property; if there are no more than two children she takes one third; if more than two the widow takes a child's share.

Ohio. Married women may take hold and convey property as if unmarried. Either husband or wife may contract as if unmarried. Neither has any interest in the estate of the other, except either takes dower in one-third of the real estate of the other. If there are no children the widow takes the personal property as next of kin; if there be a child, or children the widow takes half of any sum not exceeding \$400, and one third of the residue. Women are of age at eighteen.

Oregon. The act of 1880, provides that all laws which impose or recognize civil disabilities upon a wife which are not imposed or recognized as existing to the husband are repealed. Said act shall not give the wife the right to vote nor to hold office. A widow takes down in one-third of her husband's real estate for life. If there are ~~no~~ children the widow takes half of the personal property; if no children she takes all the personal property.

Pennsylvania. Since 1848 married women retain their property whether acquired before or after marriage as their separate property. The wife's property is not for the debts of her husband nor for her debts contracted for necessaries used in the family, until her husband's property is first exhausted. Her earnings belong to her husband unless she secures them to herself by proceedings in the court of

Common pleas and business thereby a free trader; then she may transact business sue and be sued in matters relating to her separate estate as if unmarried.

Married women remain under many of the common law disabilities. The widow of an intestate takes, if there are children, one-third of the real estate for life: if no issue she takes one-half for life: if no heirs she takes all in fee. If no issue of the marriage survive the widow takes half of the personal property; if issue survive she takes one-third; in default of all others entitled thereto she takes all.

Rhode Island. Property belonging to a married woman at the time of marriage, or which they may acquire after marriage belongs to them and is not liable for their husband's debts nor for the expenses of the family. The wife's earnings and income also ~~with~~ her property with the

same exemptions. Wife cannot do business as a trader. Dowry exists as at common law. Personal property not bequeathed goes, as follows: one-half to the wife if husband dying without issue; one-third to the widow if issue survive.

South Carolina. The real and personal property of a woman held at the time of her marriage, or that she may thereafter acquire either by gift, grant, inheritance, devise, or otherwise, shall not be subject to sale and sale for her husband's debts; but shall be held as her separate property and may be bequeathed, devised, or alienated by her, the same as if she were unmarried; provided that no gift or grant, from the husband to the wife, shall be detrimental to the just claims of creditors. Constitution of South Carolina. Art. 14, § 8.

A married woman may in all respects deal as if unmarried. She is not

She is not bound to support her family if her husband be alive. When the husband dies intestate, the widow takes of his property both real and personal, as follows: viz: if there survive a child or children, the widow takes one-third in fee; if no child or children but a brother or sister or both or a parent the widow takes half in fee; if the surviving relatives are more remote than those above specified, the widow takes two-thirds in fee; if deceased leaves no relative his widow takes all.

Tennessee. A married woman is under many of the common law disabilities. She cannot bind her lands by bond, or contract to sell or convey. The husband must join in the deed to defeat his curtesy. If husband and wife live apart or he is insane, the wife may dispose of her lands as if unmarried. She may contract with reference to, and bind

her separate estate in any way authorized by the conveyance under which she holds. Wife's lands cannot be sold to pay her husband's debts while she is living. Personal property belonging to the wife, whether acquired before or after marriage shall be exempt from the husband's ante nuptial debts and liabilities. With this exception her personal property, whether acquired before or after marriage, becomes when reduced to possession by the husband, his property and liable for his debts. A widow takes down in one-third of her husband's real estate for life. Her interest is not affected by mortgage, deed of trust or claims of creditors of the husband. Code - § 2398, § 2399. The widow takes a child's share of the personal property if there survive one or more children; if no children or descendants she takes the whole. Code, § 2429. The widow may take the homestead to the value of

\$1000. for the use of herself and family, as long as she or they reside on it, free from her husband's debts. The Probate court will set apart for the support of the widow and children, from the husband's estate, money, provisions, or assets sufficient to support herself and children for one year, in a manner in keeping with her position and circumstances. The husband's exempt property goes to his widow unincumbered. Code §. 2288.

Texas. Women under the age of twenty-one years who marry in accordance with the laws of this state attain their majority upon such marriage. All property owned by the wife at the time of marriage and that acquired after marriage is the wife's ~~separate~~ ^{separate} property. All property acquired by the husband and wife during ^{marriage} except by gift, devise, descent, or increase, to either of them, is community property and

during marriage is under the control of the husband, and he may dispose of it; and it may be taken for his debts. The wife's separate property is not liable for her husband's debts and cannot be sold without the wife's consent. A married woman cannot bind herself or her property by any negotiable instrument. She cannot enter into a partnership nor become a free trader. Upon the death of either husband or wife one-half of the common property goes to the survivor and the remainder to the child or children. Dower is unknown. The judicial system of this state is modeled after the civil law system. If issue of the marriage survives the widow takes a life estate in one-third of her husband's real estate and one-third of his personal absolutely; if no issue survives the wife takes all the personal estate and one-half the lands in fee and all the community.

Utah. All property owned by a mar-

ried woman, at the time of marriage or required after marriage, and the rents, issues and profits of the same belong to the wife as her separate property; she has exclusive control of it the same as if unmarried. Dower was restored to the first wife only, by special act of congress. Where the deceased husband leaves a widow and one child or descendants of one child the property both real and personal goes in equal parts to the widow and child or descendants of the child; if more than one child survive the widow takes one-third of the property; if no issue survive the widow takes half of the property.

Vermont. By statute of 1884, a married woman was empowered to contract with any person, other than her husband, and bind herself and her separate property in the same manner and to the

same extent as if unmarried. If deserted by her husband, she may petition the court for a decree to allow her to transact business as a ~~female~~ sole, if her petition is granted she may transact business as if unmarried. The widow takes dower in one-third of her husband's real estate. He may defeat her dower by conveying his lands as it is not necessary for the wife to join in the deed. If the personal estate does not exceed \$300, the probate court may assign it to the widow and children. If the residue of the personal estate after paying the debts exceeds \$300. in value, the widow takes one-third; if the husband leaves no issue the widow takes all his estate if it does not exceed \$2000; if it does ~~not~~ exceed \$2000, she takes \$2000 and one half of the remainder. Women are of age at eighteen. Virginia. By recent amendments the Virginia Statute reads as follows, viz: The

real and personal property of any female who
 may hereafter marry, and which she shall
 own at the time of her marriage and the
 rents, issues, and profits thereof, and any prop-
 erty, real or personal, acquired by a married
 woman as a separate and sole trader, shall
 not be subject to the disposal of her husband
 nor be liable for his debts, and shall be and
 continue her separate and sole property; and
 any such married woman shall have power
 to contract in relation thereto, or for the
 disposal thereof and may sue and be sued
 as if she was a feme sole; provided, that
 her husband shall join in any contract
 in reference to her real or personal prop-
 erty, other than such as she may acquire
 as a sole trader, and shall be joined with
 her in any action by or against her; and,
 provided, further, that nothing herein con-
 tained shall deprive her of the power to
 create without the concurrence of her

Husband a charge upon such sole and separate estate as she would be empowered to charge without the concurrence of her husband if this act had not been passed.

§2. All real and personal estate hereafter acquired by any married woman, whether by gift, purchase, inheritance, devise, or bequest, shall be and continue her sole and separate estate, subject to the provisions and limitations of the preceding section, although the marriage may have been solemnized previous to the passage of this act and she may devise and bequeath the same as if she were unmarried; and it shall not be liable to the debts and liabilities of her husband; provided that nothing contained in this act shall be construed to deprive the husband of curtesy in his wife's real estate, nor the wife of dower in her husband's estate; and that the sole and separate estate created by any gift, grant, devise, or bequest shall be

held according to the terms and powers, and
 be subject to the provisions and limitations
 thereof and to the terms and provisions of this
 act so far as not in conflict thereof. xx

33. Any married woman may, in her own name
 or by her next friend, file a bill in equity
 in any court having jurisdiction over the
 subject matter, in the event of her husband's
 refusing or being incompetent to unite in
 the conveyance or disposal of her separate
 estate; and if the court shall be of the opinion
 that the interest of the married woman
 will be promoted by a sale thereof, may
 make such decree as may be necessary
 to convey absolute title thereto.

Power exists as at common law. If the
 husband dies leaving a widow and issue,
 the widow takes one-third of the personal
 estate; if no issue survive the widow takes
 all the personal acquired after this act takes
 effect. Code, Ch. 119, § 916.

West Virginia. All the property of a married woman, acquired at any time and from any source, other than from her husband is her separate property and not liable for husband's debts. Her property is liable for her debts but collection can only be enforced in a court of equity, and then only by a sale of her personal property or the rents of her real estate. Dower exists as at common law. If issue of the marriage survives the widow takes one-third of the personal estate, after payment of the debts; if no issue of the marriage survives she takes all of the personal estate.

Wisconsin. All the property of a married woman, whether obtained before or after marriage, belongs to her independent of all control of her husband. She may receive, hold, grant, and convey property as if unmarried. A married woman may contract with all persons as if unmarried even with her husband. 3 Wis. 172.

The husband is not liable for his wife's ante nuptial debts. A married woman may sue and be sued as if unmarried. The husband's property is not liable for his wife's tort. The widow takes down in one-third of her husband's real estate for life; and a child's share in his personal estate, after deducting debts and paraphernalia.

Wyoming. Married woman has nearly the same property rights that unmarried women have. A woman may vote at all elections, the same qualifications being required as for other electors. If there are no children the widow takes the entire estate, if it does not exceed \$10,000, net value.

Province of Ontario. Nearly all of the common law disabilities of married women have been abolished. By statute of 1854, a married woman may hold and dispose of real and personal property as if un-

married; she may contract in respect to her separate property, sue and be sued in contract or tort without joining her husband.

Province of Quebec. The laws of this province, in respect to the rights of married women, display a singular blending of the civil law and the common law systems. Married women enjoy greater legal rights than under the old common law system.

Nova Scotia. Married women may carry on separate business, and may hold and convey property as if unmarried in England. All property, real or personal, possessed by a woman before, or acquired after marriage, is her separate property. She can acquire, hold, and dispose of it by will or otherwise in the same manner as if she were unmarried. She may contract in regard to her separate property and sue and be sued as if unmarried. Every

contract entered into by a married woman is to be deemed entered into in respect to her separate estate, unless the contrary is shown. The liability upon such contract is not personal. See Married Woman's Property Act of 1882.

From the preceding examination we find that the common law rule, as to the property rights of married women, being hard oppressive and unfair, has not been able to withstand the progressive tendencies of the times and it has been left behind, a relic of the past. In all of the states important statutes have been enacted, each tending to protect and extend the rights of married women in their property; the movement is still going on; it is not confined to the United States but extended to the Canadian Provinces and to England.

Legislation has advanced slowly in some state, in others rapidly; but all have advanced in the same direction.

There were five kinds of dower known to the common law; but only one attained any importance in this country. Dower, as was generally recognized in this country, was the right of the widow to have during her life the use of one-third of all the real-estate of which her husband was seized during coverture. During the husband's life this estate is called *inchoate*. The courts have generally favored dower, it being considered a moral right. But dower appears to be declining and is probably ^{destined} to wane and perish. There appears to be a disposition to disregard the time honored distinction between real property and personal property in regard to descent and distribution

of estates of deceased persons. In at least nine of the states dower does not exist, but the law gives the widow a share in the property of her deceased husband ~~without~~ making any distinction between the real and personal estate; other states retain the term dower but its meaning being changed it does not have its original signification, but is used to designate the widow's portion from her husband's estate; in other states the husband may defeat his wife's dower by conveying his lands, dower only attaching to lands owned by the husband at the time of his death. The object of the wife's joining with her husband in deeds of his real estate is to convey her inchoate dower estate therein and where the wife's interest only affects the real estate unconveyed at the time of her husband's death

it is not necessary for her to join with her husband in deeds of conveyance.

The decline of curtesy has been fully as marked as that of dower. If a wife dies owning real estate and issue of the marriage has been born alive the husband takes, as tenant by the curtesy, a life estate in all the lands of which his wife died seized. Many states have abolished curtesy or allow the wife to defeat it, as in New York a wife may defeat her husband's curtesy by deed or will.

Some state, notably Arkansas, Florida and Oregon, provide for the filing of an inventory of the wife's property, in some public office, if she desires the benefit and protection of the married woman's acts, holding that she may lose the benefit of the acts by allowing the public to suppose that her property

belonge to her husband and thereby securing to him a fictitious credit.

The tendency of the recent statutes is to allow the wife to retain, as her separate property, all property owned by her at the time of marriage and all property acquired by her subsequently, from any source, absolutely, except that transfers from her husband must not be fraudulent as to creditors; and to allow the wife to manage, hold, control and dispose of her property free from all control or interference from her husband in the same manner and to the same extent as if unmarried; and to give the wife full right to trade and contract concerning her property or business without regard to her husband and to secure to her, her wages or earnings; and to allow her to sue

and be sued on contract or tort as if a feme sole.

The ultimate result of the Married Woman's Property Acts will doubtless be the abrogation of the common law property system and the adoption, in its place, of a system, derived from the civil law, much like the community system of property holding between husband and wife.
