

ANNIE BESANT

MARRIAGE, AS IT WAS,
AS IT IS, AND AS IT
SHOULD BE

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It Is, And As It Should Be**

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Annie Besant
Marriage, As It Was, As It Is, And
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"Either all human beings have equal rights, or none have any."
– Condorcet.

I. MARRIAGE

The recognition of human rights may be said to be of modern growth, and even yet they are but very imperfectly understood. Liberty used to be regarded as a privilege bestowed, instead of as an inherent right; rights of classes have often been claimed: right to rule, right to tax, right to punish, all these have been argued for and maintained by force; but these are not rights, they are only wrongs veiled as legal rights. Jean Jacques Rousseau struck a new note when he cried: "Men are born free;" free by birthright was a new thought, when declared as a universal inheritance, and this "gospel of Jean Jacques Rousseau" dawned on the world as the sun-rising of a glorious day – a day of human liberty, unrestrained by class. In 1789 the doctrine of the "Rights of Man" received its first European sanction by law; in the August of that year the National Assembly of France proclaimed: "Men are born, and remain, free and equal in rights... The aim of political association is the conservation of the natural and imprescriptible rights of man; these rights are – liberty, property, safety, and resistance of tyranny." During savage and semi-civilised ages these "imprescriptible rights" are never dreamed of as existing; brute force is king; might is the only right, and the strong arm is the only argument whose logic meets with general recognition. In warlike tribes fair equality is found, and the chief is only *primus inter pares*; but when the nomadic tribe settles down into an agricultural community, when the habit of bearing arms ceases to be universal, when wealth begins to accumulate, and the village or town offers attractions for pillage, then strength becomes at once a terror and a possible defence. The weak obey some powerful neighbour partly because they cannot resist, and partly because they desire, by their submission, to gain a strong protection against their enemies. They submit to the exactions of one that they may be shielded from the tyranny of many, and yield up their natural liberty to some extent to preserve themselves from being entirely enslaved. Very slowly do they learn that the union of many individually feeble is stronger than a few powerful, isolated tyrants, and gradually law takes the place of despotic will; gradually the feeling of self-respect, of independence, of love of liberty, grows, until at last man claims freedom as of right, and denies the authority of any to rule him without his own consent.

Thus the Rights of Man have become an accepted doctrine, but, unfortunately, they are only rights of *man*, in the exclusive sense of the word. They are sexual, and not human rights, and until they become human rights, society will never rest on a sure, because just, foundation. Women, as well as men, "are born and remain free and equal in rights;" women, as well as men, have "natural and imprescriptible rights;" for women, as well as for men, "these rights are – liberty, property, safety, and resistance of tyranny." Of these rights only crime should deprive them, just as by crime men also are deprived of them; to deny these rights to women, is either to deny them to humanity *qua* humanity, or to deny that women form a part of humanity; if women's rights are denied, men's rights have no logical basis, no claim to respect; then tyranny ceases to be a crime, slavery is no longer a scandal; "either all human beings have equal rights, or none have any."

Naturally, in the savage state, women shared the fate of the physically weak, not only because, as a rule, they are smaller-framed and less muscular than their male comrades, but also because the bearing and suckling of children is a drain on their physical resources from which men are exempt. Hence she has suffered from "the right of the strongest," even more than has man, and her exclusion from all political life has prevented the redress which man has wrought out for himself; while claiming freedom for himself he has not loosened her chains, and while striking down his own tyrants, he has maintained his personal tyranny in the home. Nor has this generally been done by deliberate intention: it is rather the survival of the old system, which has only been abolished so slowly as regards men. Mrs. Mill writes: "That those who were physically weaker should have been made legally inferior, is quite conformable to the mode in which the world has been governed. Until very lately, the rule of physical strength was the general law of human affairs. Throughout history, the nations,

racess, classes, which found themselves strongest, either in muscles, in riches, or in military discipline, have conquered and held in subjection the rest. If, even in the most improved nations, the law of the sword is at last discountenanced as unworthy, it is only since the calumniated eighteenth century. Wars of conquest have only ceased since democratic revolutions began. The world is very young, and has only just begun to cast off injustice. It is only now getting rid of negro slavery. It is only now getting rid of monarchical despotism. It is only now getting rid of hereditary feudal nobility. It is only now getting rid of disabilities on the ground of religion. It is only beginning to treat any *men* as citizens, except the rich and a favoured portion of the middle class. Can we wonder that it has not yet done as much for women?" ("Enfranchisement of Women," Mrs. Mill. In J. S. Mill's "Discussions and Dissertations," Vol. II., page 421.) The difference between men and women in all civil rights is, however, with few, although important, exceptions, confined to married women; i.e., women in relation with men. Unmarried women of all ages suffer under comparatively few disabilities; it is marriage which brings with it the weight of injustice and of legal degradation.

In savage times marriage was a matter either of force, fraud, or purchase. Women were merchandise, by the sale of whom their male relatives profited, or they were captives in war, the spoil of the conqueror, or they were stolen away from the paternal home. In all cases, however, the possession once obtained, they became the property of the men who married them, and the husband was their "lord," their "master." In the old Hebrew books – still accounted sacred by Jews and Christians – the wife is regarded as the property of her husband. A man may "sell his daughter to be a maidservant" i.e., a concubine, as is shown by the following verse (Ex. xxi. 7), and Jacob served seven years for each of his wives, Leah and Rachel; his other two wives were his by gift, and were rather concubines than recognised wives, their children counting to their mistresses. If a Hebrew conquered his enemies, and saw "among the captives a beautiful woman, and hast a desire unto her, that thou wouldst have her to thy wife," he might take her home, and become her husband, "and she shall be thy wife" (Deut. xxi 10-14). After the destruction of Benjamin, as related in Judges xx., it was arranged that the survivors should possess themselves of women as wives by force and fraud: "Life in wait in the vineyards, and see and behold if the daughters of Shiloh come out to dance in dances, then come ye out of the vineyards, and catch you every man his wife... And the children of Benjamin did so, and took their wives according to their number, of them that danced, whom they caught" (Judges xxi. 20, 21, 23). The same plan was adopted by the Romans in their earliest days, when they needed wives. Romulus invited the people of the Sabines and the neighbouring towns to see some public games, and in the midst of the show the Romans rushed in and carried off all the marriageable maidens they could lay hands on (Liddell's "History of Rome," p. 20). These instances may be objected to as legendary, but they are faithful pictures of the rough wooing of early times. Among some barbarous nations the winning of a bride is still harsher: the bridegroom rushes into the father's house knocks the maiden down, picks up her senseless body, flings it over his shoulder, and runs for his life; he is pursued by the youth of the village, pelted with stones, sticks, &c., and has to win his wife by sheer strength and swiftness. In some tribes this is a mere marriage ceremony, a survival from the time when the fight was a real one, and amongst ourselves the slipper thrown after the departing bridegroom and bride is a direct descendant of the heavier missiles thrown with deadly intent thousands of years ago by our remote ancestors. Amongst many semi-barbarous nations the wives are still bought; in some parts of Africa the wooer pays a certain number of cows for his bride; in other places, money or goods are given in exchange. The point to be noted is that the wife is literally taken by force, or bought; she is not free to choose her husband; she does not give herself to him; she is a piece of property, handed over by her original owner – her father – to her new owner – her husband – in exchange for certain solid money or money's worth; hence she becomes the property of the man who has paid for her.

In an admirable article in the *Westminster Review* for April, 1876, the following striking passage is to be found:

"As Aristotle long since remarked, among savages women and slaves hold the same rank. Women are bought primarily as slaves, to drudge and toil for their masters, whilst their function as wives is secondary and subordinate. It is more right to say of polygamous people that their slaves are also their wives, than to say that their wives are slaves. They are purchased as slaves, they work as slaves, and they live as slaves. 'The history of uncultivated nations,' it has been said, 'uniformly represents the women as in-a state of abject slavery, from which they slowly emerge as civilisation advances.' In Canada a strap, a kettle, and a faggot are placed in the new bride's cabin, to indicate that it will be henceforth her duty to carry burdens, dress food, and procure wood for her husband. In Circassia it is the women who till and manure the ground, and in parts of China they follow the plough. A Moorish wife digs and sows and reaps the corn, and an Arabian wife feeds and cleans and saddles her master's horse. Indeed, the sole business of Bedouin wives is to cook and work, and perform all the menial offices connected with tent-life... From the absolute power of a savage over his slaves flow all those rights over a woman from which the marital rights of our own time are the genealogical descendants... A trace of it [purchase] is found in the following customs of old English law: – 'The woman at the church-door was given of her father, or some other man of the next of her kin, into the hands of her husband, and he laid down gold and silver for her upon the book, as though he did buy her.'" This custom is still maintained in the Church ritual; the priest asks: "Who giveth this woman to be married to this man?" and when the man gives the ring to the priest, he gives money with it, receiving back the ring to give the woman, but the money remaining, a survival of the time when wives were literally bought.

By the old Roman laws, the married woman had no personal rights; she was but the head slave in her husband's house, absolutely subject in all things to her lord. As the Romans became civilised, these disabilities were gradually removed. It is important to remember these facts, as these are the origin of our own marriage laws, and our common law really grows out of them.

One other point must be noticed, before dealing immediately with the English marriage laws, and that is the influence exerted over them by ecclesiastical Christianity.

The Old Testament expressly sanctions polygamy; but while the New Testament does not proscribe it – except in the case of bishops and deacons – ecclesiastical Christianity has generally been in favour of monogamy; at the same time, both the New Testament and the Church have insisted on the inferiority of the female sex; "the husband is the head of the wife" (Eph. v. 23); "wives, submit yourselves unto your own husbands" (Col. iii. 18); "your women... are commanded to be under obedience" (1 Cor. xiv. 34); "ye wives, be in subjection to your own husbands... even as Sara obeyed Abraham, calling him lord, whose daughters ye are as long as ye do well" (1 Pet. iii. 1, 6). The common law of England is quite in accordance with this ancient Eastern teaching, and regards men as superior to women; "Among the children of the purchaser, males take before females, or, as our male lawgivers, have expressed it, the worthiest of blood shall be preferred" ("Comm, on the Laws of England," J. Stephen, 7th ed. vol. i. p. 402).

The feudal system did much, of course, to perpetuate the subjection of women, it being to the interest of the lord paramount that the fiefs should descend in the male line in those rough ages, when wars and civil feuds were almost perpetual, it was inevitable that the sex with the biggest body and strongest sinews should have the upper hand; the pity is that English gentlemen to-day are content to allow the law to remain unaltered, when the whole face of society has changed.

Let us now turn to the disabilities imposed upon women by marriage.

Blackstone lays down, in his world-famous "Commentaries on the Laws of England," that the first of the "absolute rights of every Englishman" is "the legal and uninterrupted enjoyment of his life, his limbs, his body, his health, and his reputation" (9th ed., bk. 1, p. 129). The second right is personal liberty, and he says: "the confinement of a person in anywise is an imprisonment. So that the keeping; a man against his will in a private house... is an imprisonment" (Ibid, 136): The third is property, "which consists in the free use and enjoyment of all his acquisitions, without any control

or diminution, save only by the laws of the land" (Ibid, 138). A subordinate right, necessary for the enforcement of the others, is "that of applying to the courts of justice for redress of injuries." I shall proceed to show that a married woman is deprived of these rights by the mere fact of her marriage.

In the first place, by marriage a woman loses her legal existence; the law does not recognize her, excepting in some few cases, when it becomes conscious of her existence in order to punish her for some crime or misdemeanour. Black-stone says – and no subsequent legislation has in any way modified his dictum: "By marriage the husband and wife are one person in law; that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated or consolidated into that of the husband; under whose wing, protection, and *cover*, she performs every thing; and is therefore called in our law-French a *feme covert*" (p. 442). "Husband and wife are one person in law" (Comyn's Digest, 5th ed., vol. ii., p. 208), and from this it follows that "by no conveyance at the common law could the husband give an estate to his wife;" that "a. husband cannot covenant or contract with his wife," even for her own advantage, and that any prenuptial contract made with her as to money she shall enjoy for her separate use after marriage, becomes void as soon as she is married. All covenants for the wife's benefit must be made with some one else, and the husband must covenant with some other man or unmarried woman who acts as trustee for the wife. This is the fundamental wrong from which all the others flow: "'Husband and wife are one person,' and that one is the husband." The wife's body, her reputation, are no longer her own. She can gain no legal redress for injury, for the law does, not recognize her existence except under cover of her husband's suit. In some cases more modern legislation has so far become conscious of her, as to protect her against her husband, and if this protection separates her from him, it leaves her the more utterly at the mercy of the world.

Various curious results flow, in criminal law, from this supposition that husband and wife are only one person. They are incompetent – except in a few special instances – to give evidence for or against each other in criminal cases; if a woman's husband be one of several defendants indicted together, the woman cannot give evidence either for or against any of them. Where the wife of an accomplice is the only person to confirm her husband's statement, the statement falls to the ground, as, in practice, confirmation thereof is required; in the case of *Rex v. Neal* (7 C. and P 168), Justice Park said: "Confirmation by the wife is, in this case, really no confirmation at all. The wife and the accomplice must be taken as one for this purpose. The prisoners must be acquitted." They may, however, be severally called as witnesses by the prosecution and the defence, in order that they may contradict each other. Where the wife has suffered personal violence from her husband she is permitted to swear the peace against him, and in divorce suits husband and wife are both admissible as witnesses. A wife who sets fire to her husband's house may escape punishment, as in the case of *Rex. v. March*: "March and his wife had lived separate for about two years; and, previous to the act, when she applied for the candle with which it was done, she said it was to set her husband's house on fire, because she wanted to burn him to death. Upon a case reserved upon the question whether it was an offence within the 7 and 8 George IV., cap. 30, sec. 2, for a wife to set fire to her husband's house for the purpose of doing him a personal injury, the conviction was held wrong, the learned judges thinking that to constitute the offence, it was essential that there should be an intent to injure or defraud some third person, not one identified with herself" (Ibid, p. 899). Identification with one's beloved may be delightful in theory, but when, in practice, it comes to being burned at pleasure, surely the greatest stickler for the "twain being one" must feel some twinges of doubt. The identity of husband and wife is often by no means advantageous to the husband, for he thereby becomes responsible, to a great extent, for his wife's misdoings. "For slanderous words spoken by the wife, libel published by her alone, trespass, assault and battery, &c., he is liable to be so sued, whether the act was committed with or without his sanction or knowledge... And wherever the action is grounded on a tort, committed by the wife, it no way affects the necessity of joining the husband, that the parties are living apart, nor even that they are divorced *a mensâ et thoro*, or that the wife is living in

adultery" (Lush's "Common Law Practice," 2nd ed. p. 156). Pleasant position for a man whose wife may have left him, to be suddenly dragged before a court of justice for some misdeed of hers, of which he may never have heard until he finds himself summoned to answer for it! A large amount of injustice arises from this absurd, fiction that two are one; it sometimes injures, sometimes protects the married woman, and it often shields those who have wronged her; but whether it injure or whether it protect, it is equally vicious; it is *unjust*, and injustice is a radical injury to a community, and by destroying the reasonableness and the certainty of the law, it saps that reverence for it which is one of the safeguards of society.

Let us now take Blackstone's "rights of every Englishman," and see what rights the common law allowed to a married Englishwoman. A married woman is not protected by the law in the "uninterrupted enjoyment of" her "limbs," her "body," or her "reputation." On the contrary: "If a wife be injured in her person, or her property, she can bring no action for redress without her husband's concurrence, and in his name as well as her own" (Blackstone, p. 443). If in a railway accident a married woman has her leg broken, she cannot sue the railway company for damages; she is not a damaged *person*; in the eye of the law, she is a piece of damaged *property*, and the compensation is to be made to her owner. If she is attacked and beaten she cannot at law sue her assailant; her master suffers loss and inconvenience by the assault on his housekeeper, and his action is necessary to obtain redress. If she is libelled, she cannot protect her good name, for she is incapable by herself of maintaining an action. In fact, it is not even needful that her name should appear at all in the matter: "the husband may sue alone for loss of his wife's society by injury done to her, or for damage to her reputation" (Comyn's Digest, under "Baron and Feme"). The following curious statement of the law on this head is given in Broom's "Commentaries:"

"Injuries which may be offered to a person, considered as a husband, and which are cognizable in a court of common law, are principally three: 1, abduction, or taking away a man's wife; 2, beating her; 3, indirectly causing her some personal hurt, by negligence or otherwise. 1. As to the first sort, abduction, or taking her away, this may either be by fraud and persuasion, or open violence; though the law in both cases supposes force and constraint, the wife having no power to consent, and therefore gives a remedy by action of trespass; and the husband is also entitled to recover damages in an action on the case against such as persuade and entice the wife to live separate from him without a sufficient cause... 2, 3. The second and third injuries above mentioned are constituted by beating a man's wife, or otherwise ill-using her; or causing hurt to her by negligence. For a common assault upon, or battery, or imprisonment, of the wife, the law gives the usual remedy to recover damages, by action of trespass, which must be brought in the names of the husband and wife jointly: but if the beating or other maltreatment be so enormous, that thereby the husband is deprived for any time of the company and assistance of his wife, the law then gives him a separate remedy by action for this ill-usage, *per quod consortium amisit*, in which he may recover a satisfaction in damages. By a provision of the C. L. Proc. Act, 1852, s. 40, in an action by husband and wife jointly for an injury to the wife, the husband is now allowed to add a claim in his own right – as for the loss of the wife's society – or where a joint trespass and assault have been committed on the husband and his wife" (vol. iii., pp. 149, 150). So far is recognised the husband's complete claim over his wife's person, that anyone who receives a married woman into his house and gives her shelter there after having received notice from her husband that he is not to permit her to remain under his roof, actually becomes liable in damages to the husband. The husband cannot sue for damages if he has turned his wife out of doors, or if he has lost his right of control by cruelty or adultery; short of this, he may obtain damages against any friend or relative of the woman who gives her shelter. The wife has no such remedy against anyone who may induce the husband to live apart, or who may give him house-room at his own wish. The reason for the law being as we find it, is stated by Broom without the smallest compunction: "We may observe that in these relative injuries notice is only taken of the wrong done to the superior of the parties related, by the breach and dissolution of either the relation itself, or at least the advantage accruing

therefrom; while the loss of the inferior by such injuries is, except where the death of a parent has been caused by negligence, unregarded. One reason for which may be, that the inferior has no kind of property in the company, care, or assistance of the superior, as the superior is held to have in that of the inferior; and therefore the inferior can, in contemplation of law, suffer no loss consequential on a wrongful act done to his superior. The wife cannot recover damages for the beating of her husband. The child has no property in his father or guardian. And the servant, whose master is disabled, does not thereby lose his maintenance or wages (Ibid, p. 153). A man may recover damages equally for the injury done to his servant or to his wife; in both cases he loses their services, and the law recompenses him. A peculiarly disgusting phase of this claim is where a husband claims damages against a co-respondent in the divorce court; if a wife be unfaithful, the husband can not only get a divorce, but can also claim a money payment from the seducer to make up for the damage he has sustained by losing his wife's services. An unmarried girl, under age, is regarded as the property of her father, and the father may bring an action against her seducer for the loss of his daughter's services. It is not the woman who is injured, or who has any redress; it is her male owner who can recover damages for the injury done to his property."

If a wife be separated from her husband, either by deed or by judicial decree, she has no remedy for injury or for libel, unless by the doubtful plan of using her husband's name without his consent. On this injustice Lord Lyndhurst, speaking in the House of Lords in 1856, said: "A wife is separated from her husband by a decree of the Ecclesiastical Court, the reason for that decree being the husband's misconduct – his cruelty, it may be, or his adultery. From that moment the wife is almost in a state of outlawry. She may not enter into a contract, or if she do, she has no means of enforcing it. The law, so far from protecting, oppresses her. She is homeless, helpless, hopeless, and almost wholly destitute of civil rights. She is liable to all manner of injustice, whether by plot or by violence. She may be wronged in all possible ways, and her character may be mercilessly defamed; yet she has no redress. She is at the mercy of her enemies. Is that fair? Is that honest? Can it be vindicated upon any principle of justice, of mercy or of common humanity?"

A married woman loses control over her own body; it belongs to her owner, not to herself; no force, no violence, on the husband's part in conjugal relations is regarded as possible by the law; she may be suffering, ill, it matters not; force or constraint is recognised by the law as rape, in all cases save that of marriage; the law "holds, it to be felony to force even a concubine or harlot" (Broom's "Commentaries," vol. iv., p. 255), but no rape can be committed by a husband on a wife; the consent given in marriage is held to cover the life, and if – as sometimes occurs – a miscarriage or premature confinement be brought on by the husband's selfish passions, no offence is committed in the eye of the law, for the wife is the husband's property, and by marriage she has lost the right of control over her own body. The English marriage law sweeps away all the tenderness, all the grace, all the generosity of love, and transforms conjugal affection into a hard and brutal legal right.

By the common law the husband has a right to inflict corporal punishment on his wife, and although this right is now much restricted, the effect of the law is seen in the brutal treatment of wives among the rougher classes, and the light – sometimes no – punishment inflicted on wife-beaters. The common law is thus given by Blackstone: "The husband also (by the old law) might give his wife moderate correction. For as he is to answer for her misbehaviour, the law thought it reasonable to entrust him with this power of restraining her, by domestic chastisement, in the same moderation that a man is allowed to correct his apprentices or children. The lower rank of people, who were always fond of the old common law, still claim and exert their ancient privilege." Blackstone grimly adds, after saying this is all for woman's protection: "So great a favourite is the female sex of the laws of England" (444 and 445). This "ancient privilege" is very commonly exercised at the present time. A man who dragged his wife out of bed (1877), and, pulling off her nightdress, roasted her in front of the fire, was punished (?) by being bound over to keep the peace for a short period. Men who knock their wives down, who dance on them, who drag them about by the hair, &c., are condemned to brief

terms of imprisonment, and are then allowed to resume their marital authority, and commence a new course of ill-treatment. In dealing later with the changes I shall recommend in the marriage laws, this point will come under discussion.

Coming to the second "right," of "personal liberty," we find that a married woman has no such right. Blackstone says, as we have seen: "the confinement of a person in any wise is an imprisonment So that the keeping a man against his will in a private house... is an imprisonment" (p. 136). But a husband may legally act as his wife's gaoler; "the courts of law will still permit a husband to restrain his wife of her liberty, in case of any gross misbehaviour" (Blackstone, p. 445). "If the wife squanders his estate, or goes into lewd company, he may deprive her of liberty" (Comyn's Digest, under "Baron and Feme"). Broom says that at the present time "there can be no question respecting the common-law right of a husband to restrain his wife of her personal liberty, with a view to prevent her going into society of which he disapproves, or otherwise disobeying his rightful authority; such right must not, however, be exercised unnecessarily, or with undue severity: and the moment that the wife by returning to her conjugal duties, makes restraint of her person unnecessary, such restraint becomes unlawful" (vol. i, p. 547). In the year 1877 a publican at Spilsby chained up his wife to the wall from one day to the afternoon of the following one, in order, he said, to keep her from drink; the magistrates dismissed him without punishment. It may be argued that a woman should not get drunk, go into bad company, &c. Quite so; neither should a man. But would men admit, that under similar circumstances, a wife should have legal power to deprive her husband of liberty? If not, there is no reason in justice why the husband should be permitted to exercise it. Offences known to the law should be punished by the law, and by the law alone; offences which the law cannot touch should entail no punishment on an adult at the hands of a private individual. Public disapproval may brand them, but no personal chastisement should be inflicted by arbitrary and irresponsible power.

The third right, of "property," has also no existence for married women. Unmarried women have here no ground for complaint: "A *feme sole*, before her marriage, may do all acts for disposition, etc., of her lands or goods which any man in the same circumstances may do" (Comyn's Digest, under "Baron and Feme"). The disabilities which affect women as women do not touch property; a *feme sole* may own real or personal estate, buy, sell, give, contract, sue, and be sued, just as though she were of the "worthier blood;" it is marriage that, like felony and insanity, destroys her capability as proprietor. According to the common law – with which we will deal first – the following results accrued from marriage: —

"Whatever personal property belonged to the wife before marriage, is by marriage absolutely vested in the husband... in chattel interests, the sole and absolute property vests in the husband, to be disposed of at his pleasure, if he chooses to take possession of them" (Blackstone, book ii. 443). If he takes possession, they do not, at his death, revert to the wife, but go to his heirs or to anyone he chooses by will. "If a woman be seized of an estate of inheritance, and marries, her husband shall be seized of in her right" (Comyn's Digest, under "Baron and Feme"). If a woman own land in her own right, all rents and profits are not hers, but her husband's; even arrears of rents due before coverture become his; he may make a lease of her land, commencing after his own death, and she is barred, although she survive him; he may dispose of his wife's interest; it may be forfeited by his crime, seized for his debt; she only regains it if she survives him and he has not disposed of it. If a woman, before marriage, lets her land on a lease, the rental, after marriage, becomes her husband's, and her receipt is not a good discharge. If a wife grants a rent-charge out of her own lands (or, rather, what should be her own) without the husband's consent, it is void. All personal goods that "the wife has in possession in her own right, are vested in her husband by the marriage" (Ibid); gifts to her become his; if he sues for a debt due to his wife, and recovers it, it is his; if a legacy be left her, it goes to him; after his death, all that was her personal property originally, goes to his executors and administrators, and does not revert to her; so absolutely is all she may become possessed of his by law that if, after

a divorce *a mensâ et thoro*, the wife should sue another woman for adultery with her husband, and should be awarded her costs, the husband can release the woman from payment.

If a woman own land and lease it, then if, during marriage, the husband reduce it into possession, "as where rent accruing on a lease granted by the wife *dum sola* is received by a person appointed for that purpose during the husband's life," under such circumstances the husband's "executors, not his widow, must sue the agent" (Lush's "Common Law Practice," 2nd. ed., p. 27). In a case where "certain leasehold property was conveyed to trustees upon trust to permit the wife to receive the rents thereof to her sole and separate use, and she after marriage deposited with her trustees part of such rents and died; it was held that her husband might recover the same in an action in his own right. Such money, so deposited, was not a *chose in action*

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