

Resource:

Coverture

Document Text

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 and consolidated into that of the husband; under whose wing, protection, and cover, she performs every thing; and is . . . under the protection and influence of her husband, her baron, or lord; and her condition during her marriage is called her coverture. Upon this principle, of an union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage. . . .

[E]ven the disabilities which the wife lies under, are for the most part intended for her protection and benefit. So great a favourite is the female sex of the laws of England.

Sir William Blackstone, *Commentaries on the Laws of England*, Book the First: Chapter the Fifteenth: Of Husband and Wife. 4 vols (Oxford: Printed at the Clarendon Press, 1765-1769).

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Summary

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 and consolidated into that of the husband; under whose wing, protection, and cover, she performs every thing; and is . . . under the protection and influence of her husband, her baron, or lord; and her condition during her marriage is called her coverture. Upon this principle, of an union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage. . . .

Husbands and wives are one legal entity. A woman does not legally exist. She is “covered” by her husband, and before him her father.

[E]ven the disabilities which the wife lies under, are for the most part intended for her protection and benefit. So great a favourite is the female sex of the laws of England.

This law is to protect women.

Sir William Blackstone, *Commentaries on the Laws of England*, Book the First: Chapter the Fifteenth: Of Husband and Wife. 4 vols (Oxford: Printed at the Clarendon Press, 1765-1769).

Background

Coverture is a legal principle that dates back to the Middle Ages and comes from a French term meaning “covered.” Imported to the American colonies as part of English common law, coverture had a significant impact on women’s lives.

Under coverture, a married woman was included in her husband’s legal identity. In the eyes of the law she did not exist as an individual, but was instead “covered” by her husband. This meant that married women could not make a will or own property. They

had no rights to wages they earned, and lost control of anything they owned before marriage. Coverture also meant that husbands had control over their wives' bodies and over their families; if a husband chose to send his child away as an apprentice, his wife had no say in the matter.

The law affected unmarried women as well. Although they had more legal rights than their married counterparts, few unmarried women had opportunities. Before marriage women were considered "covered" by their fathers, and widows found it difficult to support themselves and any children they might have had. Most young women married, and most widows remarried.

Beyond its impact on women's legal rights, coverture created attitudes that seemed like unbreakable truths: women were supposedly dependent, delicate, and dim-witted, while men were steady, tough, and rational. These attitudes, in turn, impacted women's upbringing. Most girls received little or no education and most women lacked the preparation and therefore the confidence to pursue a profession. Yet many women had to work anyway, and their husbands controlled their wages.

Coverture affected the lives of all American women. It has been diminished over time, but vestiges of it remain even today.

About the Document

Common law was a set of legal principles based on court decisions and customs that developed slowly over time, but remained unwritten for centuries. William Blackstone, a judge and scholar, collected and published English common laws for the first time in the 1760s. He did not create the law of coverture, but when he committed it to paper in this document, he made it formal and concrete in a way it had not been before.

Ironically, William Blackstone committed coverture to the written record during the Enlightenment, just as philosophers developed the revolutionary concept of natural rights—universal rights that do not have to be granted by a governing body. After the American Revolution, the United States adopted much of the common law system that the colonies had been using for more than a century. While some common law language was filtered out of use, coverture was allowed to stand.

For more about the legal and social customs regulating women’s behavior, check out *Could and Should: Laws and Rules Affecting Women, 1765-1860*.

Vocabulary

- **common law:** A set of legal principles developed from judicial decisions, customs, and precedent that were unwritten in statute or code.
- **consolidated:** Joined together.
- **disabilities:** A lack of legal qualification to do something.
- **Enlightenment:** An 18th century philosophical movement that rejected traditional social, religious, and political ideas in favor of rationalism.
- **incorporated:** United in one body.
- **suspended:** To cause to stop temporarily.
- **vestige:** A trace of something that is disappearing.

Pronunciation

- **coverture:** KUH-vuh-chur

Discussion Questions

- What does this document reveal about the legal status of women in the British colonies in the Americas?
- Sir William Blackstone, when considering the coverture laws, states that the “disabilities” that women suffer under coverture are in fact to their benefit. What are these “disabilities”? What do you think of his assessment?

Suggested Activities

- Ask students to read about the current gender wage gap, and then write an additional paragraph about how the system and attitudes of coverture may still be informing women’s pay rates in the 21st century.
- Pair this document with Joseph Grover’s will, and ask your students to consider how the practice of coverture (1) fits in with the will, and (2) limits the prospects of Joseph’s wife and daughters.
- Connect this document to Mira Edson Kohler’s article “This is My Own, My Native Land” and ask students to discuss how the principals of coverture are reflected in the 1907 Expatriation Act.
- The practice of coverture has shaped women’s legal, social, and economic experience throughout American history. For more on coverture in each unit, see the list below:
 - Early Encounters: Translating for the Dutch and Lenni-Lenape, Negotiating the Surrender of New Amsterdam, Life Story: Johanna de Laet, The Last Will and Testament of Joseph Grover, A Nun Challenges the Patriarchy, Marriage Contracts in the Spanish Colonies, Patent for Cleaning and Curing Corn

- Settler Colonialism and the American Revolution: The Edenton Tea Party, Life Story: Catherine Littlefield Greene Miller, Professional Portraitist, Woman of Business, Symbols of Accomplishment, Life Story: Susanna Wright
- A Nation Divided: Life Story: Harriet Robinson Scott, Sanitary Fairs, Changing the Rules of War, The Other Thirteenth Amendment, Life Story: Emily Jane Liles Harris, Life Story: Mary Todd Lincoln, “All Bound Up Together”, New York Exchange for Women’s Work, Life Story: Ella Gertrude Clanton Thomas
- Modernizing America: Expanding Women’s Roles and Fighting Public Evils, Life Story: Ellen Swallow Richards, Life Story: Maggie Walker, Waged Industrial Work, Waged Work and Protective Laws, Fighting for Healthy Women and Families, What is Feminism?, Life Story: Jane Addams, Life Story: Emma Goldman, Together for Home and Family, Arguments for and Against Suffrage, Black Suffragists, Picture Brides and Japanese Immigration, Women Without a Country, Black Life in the Urban North
- Confidence and Crises: Women Voters, Defining and Debating Equality, Beauty, Style, Consumerism, Flappers in the Media, Life Story: Ella May Wiggins, A Bootlegging Mother, Militant Housewives, Married Women and Work, Unattached Women, Life Story: Ellen Sullivan Woodward, Recruiting Women, Home Life in War Time, Women and War Work on Film, Post-War Weddings, Ruling to Protect Women, ERA Revisited, What Happened to Rosie?

Themes

AMERICAN IDENTITY AND CITIZENSHIP; DOMESTICITY AND FAMILY

New-York Historical Society Curriculum Library Connections

- For more resources relating to the English colonies, see *New World - New Netherland - New York*.
- For resources about coverture's legacy in the early republic, see *Saving Washington: The New Republic and Early Reformers*.