

LEGAL STATUS OF WOMEN

A KIT FOR ACTION

For many years there has been random talk in Texas about constitutional provisions and statutes which discriminate against married women. Some attempts have been made by the Legislature to change the present laws, but all these attempts have failed. One of the most important reasons for failure rests with the women of Texas themselves - whenever such an attempt to remove or modernize obsolete or discriminatory laws has been made, not enough women have wanted to find out how these laws affect their status, not enough women have made an effort to support such legislation.

Today the prospects for removing some of these obsolete or discriminatory laws look better than ever before. Both houses of the 1955 Legislature passed a resolution requesting the Texas Legislative Council to make a thorough study of the Constitution and laws of our state which relate to the status of women, their legal rights and privileges, with particular attention to civil disabilities arising from women's marital status.

The staff of the Texas Legislative Council has completed the study which has been submitted to a Study Committee composed of Senator Rogers Kelley, Edinburg, chairman; Senator Neveille H. Colson, Navasota; Representative Tom King, Dallas; Representative Joe Burkett, Kerrville; and Representative Gus Garrett, Raymondville, appointed by the Council to make recommendations on this subject.

One of the important decisions reached by this Study Committee was that only two laws should be tackled at this time and bills should be prepared and introduced to remove the two discriminations against married women, those of the SEPARATE ACKNOWLEDGMENT, and the MANAGEMENT AND CONTROL OF SEPARATE PROPERTY.

This KIT is designed for the use of women's organizations in Texas. It is felt that a concerted effort is the only effective method to convince our legislators that we are behind the correction of these laws. It must be mentioned that this is a long range program -- two laws now, hopefully more later. The job ahead is that of informing, educating and encouraging a united effort by the women of Texas in the support of these two bills.

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LEGAL STATUS OF WOMEN

Here they are, the two laws against married women which we seek to remove in 1957. Remember, action will come from the legislators -- not the voters of Texas, since these are statutes and not constitutional provisions.

SEPARATE ACKNOWLEDGMENT In signing a deed or legal instrument, the single woman, like single and married men, appears before a Notary Public and swears, or "acknowledges", that she executed the instrument for the "purposes and consideration therein expressed." The married woman is taken into another room, "privily and apart from her husband", where the transaction is "fully explained to her." Whereupon she acknowledges "such instrument to be her act and deed", which she "willingly signed" and that she does not wish to retract it.

MANAGEMENT AND CONTROL OF SEPARATE PROPERTY As long as a Texas woman remains single, she has full power to sell, mortgage and manage her property. The minute the marriage ceremony is concluded, she loses this right. She cannot legally do any of these things without her husband joining in signing the deed, mortgage, note or other instrument. This applies to all her "separate property", that earned and accumulated before marriage and that acquired after marriage by gift or inheritance. When the marriage is dissolved, by death or divorce, her rights are restored.

Although only these two statutes will be considered, other provisions, discriminatory or obsolete, which exist in our laws will be described for the benefit of organizations working on this problem.

BACKGROUND INFORMATION

FEDERAL REFORMS With the passage in 1920 of the 19th Amendment to the United States Constitution giving women the right to vote, the status of the American woman has steadily improved. The establishment of the Women's Bureau, the strengthening of the Children's Bureau, the passage of the Sheppard -Towner Bill for education in maternal and infant care resulted in many social reforms.

GENERAL STATE DISCRIMINATIONS Few discriminations now exist against women in the federal laws and attention is concentrated on the status of women at the state level. There are still 4 states which do not permit women to serve on juries. Some states deny women the guardianship of their children. In a few states husbands exercise certain controls over their wives' earnings.

Perhaps one reason Texas women have not spoken up against the discriminatory and obsolete laws is because they realize they are better off than women in many other states, especially in the 40 states where the basic principles of old English feudal common-law still prevail.

In those 40 states the married woman loses her identity. All that she had at the time of marriage passes into the possession, or control of her husband. All that is earned and accumulated during marriage, even that which she has earned or helped to earn, belongs to her husband. Her right to give or leave by will is controlled by her husband.

TEXAS Texas so amended its State Constitution in 1918 that we had woman suffrage here two years before the passage of the 19th Amendment to the Federal Constitution. In other ways Texas has made considerable progress in assuring equal political rights for women. In fact, this was practically complete with the passage of the constitutional amendment requiring Texas women to serve on juries.

But many legal discriminations, particularly those affecting married women, still remain. A single woman in Texas has the same legal rights and privileges as a man, but a married woman is handicapped in disposing of her separate property, in independently maintaining a cause of action, in obtaining support for her minor children without the necessity of filing suit for divorce -- to name just a few.

In regard to this state of affairs, one State Senator recently said, "Frankly, in this modern age, it is improbable that the male human being would endure the restrictions that Texas law still imposes on the female. He would howl to high heaven and he would not be long in freeing himself from these shackles."

Or, as Judge Sarah T. Hughes said, "Texas must be full of very happily married women, or something would have been done about this long ago."

ATTEMPTED REFORMS Attempts to "do something" have been made time and time and time again. As early as 1923, efforts were made to abolish the "separate acknowledgment." As far back as 1931, attempts were made to give married women the right to manage and sell their "separate property." Successive attempts have failed because, say our legislators, "The women of Texas do not want these rights!"

Let's take a look at these rights which are being denied us and maybe we will say, "We do, too, want these rights."

COMMUNITY PROPERTY STATES

In comparison with the 40 common-law states, the status of married women in Texas is good. The Texas woman lives in one of the 8 community property states which recognize the married woman as an entity -- marriage as a partnership. These community property states lie in the West and Southwest, the states first occupied by the Spaniards.

Under these Texas laws the wife keeps her identity; the common-law theory that the legal existence of the wife is merged in the husband has never been recognized in this state. In Texas, the wife keeps as her "separate property" all that she owned at the time of her marriage and that acquired after, by gift, provisions of a will, or inheritance. The husband's property acquired in the same manner is set apart as his separate property.

But the Texas wife lacks freedom to control her property, to enter into business for herself, to make contracts, to sue and be sued, and to do various other things for the protection of the property of herself and her children. The strings tying her hands are the "protective" laws passed many years ago when women were trained only to be good housewives and mothers, with little formal education, no business training or experience, no contacts beyond home, church and school. As a result and to protect women from their own ignorance and inexperience, laws were passed placing much of the management and complete and final control of property in the hands of the husband.

SEPARATE PROPERTY

In respect to controlling her separate property, the law states: "The wife shall have the sole management, control and disposition of her separate property, both real and personal; provided, however, the joinder of her husband....shall be necessary to the incumbrance or conveyance by the wife of her lands, and the joint signature of the husband shall be necessary to a transfer of stocks and bonds belonging to her." This means that the husband's signature is also required on every mortgage or deed of property, on every transfer of stocks or bonds. Texas is one of 4 states (and the only community property state) requiring the husband's signature on a wife's deed conveying her own land. The law does not require the wife's signature for the management or disposition of the husband's separate property.

To a certain extent this law permits the wife to manage her separate property. For instance, if she desires to add to a building that she owns, she will have no trouble if she pays cash for lumber, other materials and labor. Or, she may, possibly, arrange to buy the materials on open account. But she cannot make arrangements for a mechanic's lien to be placed on the property to secure payment of the improvements without her husband's consent and joinder in executing the notes and deed of trust. Nor can she sell the property without her husband's consent and signature.

If the husband refuses, or in the event of his insanity or permanent abandonment, she can resort to the courts, and after presenting the facts, she may obtain permission from the courts to convey, transfer or encumber her separate property without her husband's signature, if it should be considered advantageous to her interest. Appeal to the courts for any of these reasons is both embarrassing and sometimes dangerous. There is no assurance that court appeal, for any of the reasons, will be granted.

On the other hand, the husband has complete freedom in managing and conveying his separate property.

SEPARATE
ACKNOWLEDGMENT

Perhaps an attempt to protect the Texas home motivated the establishment of the "separate acknowledgment", since it dates from the days of the Republic when the deed to the homestead was the one most commonly signed by women. The separate acknowledgment, required of a married woman on any conveyance executed by her, contains the following wording, to be signed by a Notary Public:

"Before me, (the Notary Public) on this day personally appeared (Mary Jones), wife of (John Jones), known to me to be the person whose name is subscribed to the foregoing instrument, and having been examined by me privily and apart from her husband, and having the same fully explained to her, she, the said (Mary Jones), acknowledged such instrument to be her act and deed, and declared that she had willingly signed the same for the purposes and consideration therein expressed, and that she did not wish to retract it."

The original Texas statute providing for the separate acknowledgment was apparently enacted in the belief that a wife might be in such fear of her husband that she would not express her unwillingness to the transaction in his presence, but would do so out of his sight and hearing. These lawmakers evidently drew the curtain on what happened when she returned to the lawyer's or banker's office and her husband learned of her "unwillingness." Dare we imagine what happened when the husband got her home -- alone?

Since it is the acknowledgment and not the married woman's signature which gives validity to the instrument, this statute has given rise to considerable litigation concerning the validity of land titles. Through the years, unscrupulous and unprincipled couples have attempted and often succeeded in setting aside conveyances by swearing that the wife was not given an opportunity to express her unwillingness -- that she was not taken "separate and apart" from her husband for explanation and questioning. The motivation behind such attempts is increase in the land's value due to urbanization or the discovery of oil, gas or other minerals. Where attempts were successful, deeds were declared null and void and the land reverted to the former owners for resale at a more profitable figure.

OTHER TEXAS
DISCRIMINATIONS

Many more pages could be written about other legal discriminations against women in Texas. For example: regarding community property. In respect to controlling her half interest in the community property, the Texas wife has almost no say-so, since Texas law gives actual control over community property to the husband. The only exception is the sale or encumbrance of the homestead; on this one deed or mortgage the wife's signature is required. Under the law, the husband's signature only is sufficient on all other deeds, mortgages and transfers. (In practice, however, more and more purchasers, title companies and banks are requesting the wife's signature, also.) All income from the wife's separate property, compensation for personal injuries to the wife, wages of the wife -- all become community property, to be managed and controlled by the husband, and disposed of by him alone without the knowledge and consent of his wife, if he desires.

Another legal discrimination is the limitation of the Texas wife to make contracts. Texas is one of 4 states which restrict, to some degree, the general contractual powers of a married woman.

Texas is one of 5 states which still have the so-called "Free Trader" statutes, under which court sanction is required for a wife's venture into an independent business. In obtaining this decree, the wife is given the rights and privileges of a single woman -- provided that the husband joins in the petition to the court. Texas is the only state which requires the husband's permission for the wife to go into business for herself.

These, simplified and briefly stated, are a few of the legal provisions governing married women in Texas. Intended -- and well-suited, perhaps -- to protect the woman of 1845, of 1876, and even of 1900, they hamper and handicap the woman of 1956.

The wall of tradition is now broken, but married women are still encircled by the high wall of obsolete laws. That they have succeeded in carving out careers for themselves in banking, merchandising, engineering, law, politics, medicine and many other fields lends sound basis to the statement that the majority of Texas marriages must be happy ones.

GOALS

After a thorough study of the State Constitution and statutes, the Study Committee of the Texas Legislative Council recommended that only two reforms be sought from the 1957 Legislature -- one, the abolition of the separate acknowledgment and, second, granting to married women the sole right to control their separate property. Many women's organizations in Texas concur in this selection, and they are banding their forces in a concerted campaign.

While the final form of these two bills has not yet been approved by the entire Texas Legislative Council, the essentials which will be included in the two bills are given in this KIT.

The first step is to reach as many women as possible, to explain the importance to them of removing these two discriminations, and to urge them to tell their legislators of their interest in the two bills which will be introduced in the next Legislature. Without widespread support by Texas women, this legislation will fail.

We believe the majority of women in Texas need only to be informed that this is the time, and they will respond wholeheartedly to this opportunity for improving the legal status of women in our State.

LEGAL STATUS OF WOMEN

Suggested SPEECH outlines

12-20 minute speech

1. Opening. Start with a brief example of an actual experience -- if not your own, find one, or dream one up on either of the two discriminations against married women. For instance:
"When my parents died many years ago, I was left a large tract of land way outside the city limits. We tried to sell it, but no one was interested in buying so far out of the city -- land without any of the city services or utilities. Well, we sort of forgot about it, except for the taxes. Last week I was made a wonderful offer for this property by a new industry which is moving here. They needed my land as part of a much larger tract they were thinking of buying. Unfortunately, my husband, who is a geologist, had just left for a month in the Big Bend country, and I simply couldn't reach him. I was informed that he would have to sign all the papers with me -- to sell this property which belongs to me! The company was in a hurry, my husband was in the Big Bend -- I still have my property and the new industry will be built in another part of town. This was the first time I even knew my husband's signature was required in the handling of my own property and, apart from the indignation at losing a sale, it made me quite interested in what a married woman can and can't do in Texas...."
2. Discuss status of women in Texas (from background material).
3. Give brief comparisons with other states.
4. Indicate numerous laws might need changing, but give the two selected for this legislative campaign, and tell why. (These are most obvious -- one absurd and one causing unjust hardship. If these two goals can be reached, we have hope of successfully removing other legal discriminations by future legislatures.)
5. What action is needed -- how women can be effective.
"Become well informed.
Contact your legislator, let him know how you feel.
Every woman can do some quiet educating of her own -- among her friends, her family, and her neighbors."
6. Closing. Be brief after you have told what action is needed -- perhaps something like this:
"Before the state senators and representatives leave for Austin in January, we hope that they will hear again and again and again from their women constituents: 'We want you to pass laws abolishing the separate acknowledgment and giving married women control of their separate property without the joinder of their husbands.'"

5-10 minute speech

1. Opening -- very short and snappy, brief example.
2. Indicate legal status of women long topic -- many discriminations.
3. Discuss two bills to be presented, explain both laws and why one should be repealed, one changed.
4. Close by telling how women can be effective in this campaign.

LEGAL STATUS OF WOMEN

TIPS on PUBLICITY

WE WANT RIGHT NOW

to interest, inform, and inspire action among those directly concerned -- WOMEN -- because the reason passage of laws removing these discriminations hasn't been accomplished before is that our legislators haven't heard from us -- the WOMEN! That's why it is most important NOW for us to start women telling their legislators how they feel. Therefore, our first job is

REACHING ALL WOMEN

THROUGH WOMEN'S ORGANIZATIONS

Get together. Community action will be most effective if a representative from each participating group is appointed for this job only. A list of interested women's organizations is included in this KIT. Your Coordinating Committee would come from these groups.

Remember that we are going to tackle TWO discriminations ONLY. If we can persuade the Legislature to vote for these two bills, then we can go back next session with more inequalities to be removed.

Do your planning early -- right now. You'll probably find October and November your best months for "going to the community".

Talk about it. Set up a Speaker's Bureau. Copies of this KIT, with its background information on Status of Women, should be provided each speaker. Plan a variety of speeches -- 5 minutes, 10 minutes, not longer than 20 minutes. Offer speakers to every women's group in your town (and county).

THROUGH NEWSPAPERS

Personal visits -- with your background information -- to editors, editorial writers, city editors, and women's editors, will give you some idea of the amount of newspaper publicity you can expect -- provided you ask for advice and suggestions. Editorials and feature stories, timed to coincide with your "big push" in the late Fall, just before your legislators leave for Austin, will be most effective. The fact that a local Coordinating Committee has been formed is NEWS. A picture of two prominent members of this Committee conferring with their State Senator will probably make page one on an otherwise-not-very-newsy day.

THROUGH RADIO-TV

Visit your local stations and talk with managers, program directors, news editors. Offer speakers, prominent people to be interviewed. Might be smart to emphasize that this is no feminist movement afoot -- just bringing Texas laws up-to-date.

THROUGH BULLETINS

Each local cooperating group will soon be putting out its first Fall newsletter to its members. Be sure they have information for alerting their members to this CALL FOR ACTION.

LEGAL STATUS OF WOMEN

ESSENTIALS OF THE TWO BILLS WE WILL SUPPORT

ABOLISHING THE SEPARATE ACKNOWLEDGMENT REQUIREMENT

1. Amending the law which requires that the homestead of a married man cannot be conveyed without the consent and joinder of the wife and requiring her separate acknowledgment of the conveyance. The article would remain basically the same except that the married woman's acknowledgment would be in the ordinary form.

2. Amending the law which requires the wife to join in the execution of a contract creating a mechanic's or materialman's lien on the homestead and requiring her separate acknowledgment of it. The article would remain basically the same except that the married woman's acknowledgment would be in the ordinary form.

3. Repealing the law which requires that a married woman's acknowledgment be taken only after she has had the instrument shown to her and fully explained on an examination separate and apart from her husband and says after she has acknowledged it that it is her act and deed and that she has signed willingly and does not wish to retract it.

4. Either amending the article which sets out the form of acknowledgment for a married woman and substituting the ordinary form for it or repealing this article and making it clear that the article which sets out the form of an ordinary acknowledgment applies to married women as well as to other persons.

5. Including the usual sections providing that all other laws or parts of laws in conflict are repealed and declaring an emergency. The bill should not provide that the law become effective on passage, and it might be desirable to set a definite effective date, allowing time for persons concerned to become thoroughly familiar with provisions of the new law.

GIVING THE MARRIED WOMAN CONTROL OF HER SEPARATE PROPERTY

1. Amending the law which gives a married woman management, control, and disposition of her separate property but requires the joinder of the husband in the conveyance or incumbrance of her separate real estate or in the sale or transfer of stocks and bonds which are her separate property. The amendment would eliminate the necessity for the husband's joinder. It should probably clarify the wife's powers concerning her separate property by giving her express authority to make any contract concerning her separate property that she would be authorized to make but for her mar-

riage and provide that her coverture will never be a defense in a suit or action based on such contracts. It should also give the wife the right to sue and be sued concerning her separate property without the joinder of her husband and provide that her separate property is liable for her debts.

2. Amending the law which permits the wife, when the homestead is her separate property and the husband is insane or has permanently abandoned her, to obtain a court order permitting her to sell and make title to the homestead. The necessity for the court order would be eliminated under these circumstances.

3. Amending the law which provides that the husband and wife shall be sued jointly for all debts contracted by the wife for necessities furnished herself and children and for expenses which may have been incurred by her for the benefit of her separate property. If the wife is empowered to sue and be sued alone concerning her separate property, the statute should be amended to eliminate the requirement of the husband's joinder in this case but retaining the provision requiring his joinder in suits for debts contracted by the wife for necessities.

4. Repealing the law which outlines the judicial procedure by which a married woman may obtain permission from a district court to encumber, convey, or transfer her separate property if the husband is insane or has permanently abandoned her. If the requirement of the husband's joinder is eliminated, this section would no longer be necessary.

5. Repealing the law which provides that the husband and wife must join in the conveyance of real estate which is the separate property of the wife. The requirement for the wife's separate acknowledgment in this article would be repealed by the proposed bill abolishing separate acknowledgment.

6. Repealing the law which provides that the husband may sue either alone or jointly with his wife for the recovery of the wife's separate property. If the wife is permitted to sue and be sued alone concerning her separate property, the necessity for this provision is eliminated.

7. Repealing the law which provides that the husband shall be joined in suits for separate debts and demands against the wife but that no personal judgment shall be rendered against him. The necessity for this pro forma joinder would be eliminated if the wife were empowered to sue and be sued alone concerning her separate property.

8. Including the usual sections providing that all other laws or parts of laws in conflict are repealed and declaring an emergency. The bill should not provide that the law become effective on passage, and it might be desirable to set a definite effective date, allowing ample time for persons concerned to become thoroughly acquainted with its provisions.

REPORT ON LEGISLATION IN STATE LEGISLATURE - APRIL, 1951

Status of Women: Call For Action

See "What's Cooking in the Capitol" in State League Bulletin.

Education:

1. Three Year Terminal Contract Bill

House Bill #255

Senate Bill #92

Each of a teacher's first, second and third contract shall not be less than one year. Fourth and other contracts shall not be less than three years. Board of Education will give a teacher notice before firing him. If contract is not renewed, teacher will be granted a hearing (if she wants it).

2. General Appropriations Bill

This Bill is in the Free Conference Committee.

Ammendment to this bill is cutting the salaries of the chief professional personnel of the Texas Education Agency.

Housing:

(March 26).

Senate passed the bill requiring elections on Housing projects.

If there is no objection, it would permit a city to make contracts for a housing project after 60 days notice. City government could order an election on its own motion; or a petition of 5 per cent of voters; or 2,000 persons could force an election if city officials declined.

All voters may ballot.

Exempts projects now under agreement.
(Ex. West Dallas).

Mrs. S. E. Ziegler

Taken from (Mar 1951)

WHAT'S COOKING IN THE CAPITOL

LEGISLATIVE NEWS

*The Bulletin
Published by the League of
Women Voters of Texas*

There are now pending in the Legislature the following bills in which the League is interested, under authority of Platform Item, Status of Women:

(1) Repeal of separate acknowledgement statute, H. B. 136. Texas is the only state in the union which requires that a married woman be taken separate and apart from her husband and asked whether or not she signs a deed or a mortgage of her own free will and accord. The courts have condemned this statute as not being a protection but an avenue of fraud, because frequently it is used to set aside a conveyance on the ground that the statute was not followed. This bill has passed through the House and is now in the Senate. It will be in the Civil Jurisprudence Committee, of which Senator Hazelwood is chairman.

(2) H. B. No. 180--The right of a married woman to convey her separate property in the same manner that a husband can convey his separate property. This bill was introduced by Horace Houston. A public hearing was held on March 6 and the bill was referred to a sub-committee for study as to its constitutionality.

(3) The Uniform Support Act, H. B. No. 192, and a companion bill to the Uniform Support Act, H. B. No. 297, which will provide that a wife may obtain support for her minor children without the necessity of filing divorce suit, were also introduced by Mr. Houston. The Uniform Support Act will provide a procedure which will enable a contempt proceeding to be taken against a husband who has deserted his wife and children and moved to another state. These bills were also referred to a subcommittee on March 6.

(4) The Jury Service for Women Constitutional Amendment, introduced by Preston Mangum and John L. Crosthwait, will again submit to the voters of Texas the question as to whether or not women should be allowed to serve on juries.

FAMILY COURTS bill in process of being written. Lewis B. Lefkowitz, Dallas, is chairman of the statewide committee (each Local League has been asked to supply two members--Ed.)

ELECTION LAW REFORM--The Texas Election Laws Commission has under study, a bill written by its chairman and secretary. A report is due soon on this and it will doubtless be substituted for H. B. No. 6, introduced by W. R. Strump of the Commission. We urge all Leagues to familiarize themselves with the present laws so that they can understand proposed changes when they are presented.

REPORT ON LAWS WHICH DISCRIMINATE AGAINST WOMEN IN TEXAS

GIVEN TO LEADERS WORKSHOP MAY 5, 1950 - MRS. S. E. ZIEGLER

(DIRECTOR ON "EQUALIZATION OF OPPORTUNITY")

About a century ago (1848) at Seneca Falls, New York, a small group of women held a "Woman's Rights" convention. This was the beginning of a great Social movement. They passed the following resolution: "That the women of this country ought to be enlightened in regard to the laws under which they live; that they may no longer publish their degradation by declaring themselves satisfied with their present position, nor their ignorance by asserting that they have all the rights they want." These women wanted an opportunity equal to that of man in education, religion, and professions. They wanted laws permitting them to manage their own business affairs, guardianship over their children, and to be citizens on an equal footing with men.

A great deal has been achieved by women since 1848 through improvement in laws and gaining citizenship. The old cry was for equal rights. The word equal confused many people today. On January 25, the Senate passed the so-called "Equal Rights" amendment advocated for 27 years by the equal rights contingent of the feminine population. The League of Women Voters and other groups have consistently opposed this law for three main reasons:

- (1) The few remaining legal discriminations against women should be remedied by specific bills.
- (2) Inequality arising from custom can never be abolished by declaring them illegal.
- (3) Amendment would throw into legal chaos the present laws affecting mothers and working women. The Senate amended the amendment to prevent this last objection. Now the bill becomes contradictory.

The League has been interested in the passage of a bill to create a representative commission on the Status of Women (H.R. 2007). This commission would review our Federal laws and administration as they effect opportunities for women. It would catalog distinctions based upon sex before attempting to evaluate those distinctions as either advantages or disadvantages; as discriminations or as preferential treatment. It would recommend the proper laws to eliminate the remaining legal discriminations based on sex. This commission would furnish national leadership and guidance to the States where most of the remaining legal discriminations are.

A survey of the laws which discriminate against women in Texas has been made by Mrs. Margaret A. Brand, State Chairman on Status of Women. As you read them, try to evaluate them as an advantageous or disadvantageous discrimination.

References:

1. Trends February 6, 1950.
2. Congressional Statement - March 10, 1948. Testimony of Mrs. Kathryn H. Store, First Vice President of League of Women Voters, before Subcommittee #1 of House Judiciary Committee.
3. Status of Women (speech) - Mrs. Maybel McDaniel - 1947 (obtainable at League State Office).

STATUS OF WOMEN

League of Women Voters of Texas
6400 Douglas
Dallas, Texas

March, 1950
Price: 3¢

LAWS WHICH DISCRIMINATE AGAINST WOMEN IN TEXAS

-- by Margaret A. Brand, Attorney
Status of Women Chairman

1. The Right to Serve on Juries

The right of a trial by a jury is guaranteed by our state Constitution, and has been recognized since the earliest days of our Republic before our statehood. Under Sec. 19 of Article XVI it is provided: "The Legislature shall prescribe by law the qualification of grand and petit jurors."

Under Art. 2133 Revised Civil Statutes of Texas the qualifications are given as follows:

All men over 21 years of age are competent jurors unless disqualified under some provision of this chapter, And then are given the seven qualifications.

Women are not permitted to serve on juries in Texas.

2. Age of Marriage

Art. 4603 Rev. Civ. St. provides that males under 16 and females under 14 shall not marry.

Art. 4605 provides that the consent of the parent or guardian must be secured unless the parties applying shall be 21 years old in the case of the male and 18 years of age in the case of the female before the clerk shall issue a marriage license.

3. Management and Disposition of Property

Under Art. 4614. Wife's separate property. All property of the wife, both real and personal owned or claimed by her before marriage and that acquired afterwards by gift, devise or descent, as also the increase of all lands thus acquired, shall be the separate property of the wife, and she shall have the sole management, control and disposition of same but it is necessary that she have the joinder of her husband in conveying or encumbering, also in the transfer of stocks or bonds. Const. Art. 16, p. 15.

Her joinder is not required in similar transactions of the husband of his separate property.

Under Art. 4615. Compensation for personal injuries to wife shall be her separate property except such actual and necessary expenses as may have accumulated against the husband for hospital fees, medical bills and all other expenses incident to the collection of said compensation, but the Commission of Appeals has held impliedly this Article unconstitutional in Fairchild v. Davis, 15 S. W. 2 585.

Art. 4619 provides that all property acquired by either the husband or wife during marriage, except that which is the separate property of either, shall be deemed the common property of the husband and wife and during coverture may be

disposed of by the husband only, provided if the husband shall have disappeared and his whereabouts remain unknown to the wife continuously for more than twelve months, the wife shall after such period and until the husband returns to her and an affidavit filed for record, have full control, management and disposition of the community property, with the same powers as are conferred by law upon the husband and her acts shall be as those of a feme sole.

This means, of course, that the husband may convey any and all community property without the wife's signature or knowledge, except the homestead and although she has a one-half interest in the community property, he could have it all disposed of, except the homestead, and spend the money before she knew anything about it. She has no power to convey or dispose of any of the community without the joinder of her husband, except in the contingency mentioned in the latter part of Art. 4619 quoted above.

4. Right to Contract

The wife may contract for necessities for herself and children and under Art. 4621 the community property shall not be liable for any other contract of the wife, and under Art. 4623 neither the separate property of the husband nor the community other than her personal earnings and the income, rents and revenues from her separate property shall be subject to debts contracted by her except for necessities furnished herself and children, and she may not contract to encumber or convey her own separate property without the joinder of her husband.

If a wife enters any kind of business, she cannot sign a contract on which she or her separate or the community property could be held without the joinder of her husband, and in order to do business without this handicap, she has to have her disabilities of coverture removed and her husband is required to give his permission. If he refuses she has to go into the District Court to enforce such removal.

5. Right to Sue and Be Sued

It is possible for a wife to sue in her own name but in ordinary cases she should be joined her husband if she sues or is sued.

6. Grounds for Divorce

Are six and are the same for either husband or wife, except Nos. 2 and 3, which read as follows: Art. 4629.

(2) In favor of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board for the space of three years (3) with the intention of abandonment.

(3) In favor of the wife, where the husband shall have left her for three (3) years with the intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman.

7. Annulment--Lack of Age

Marriage may be annulled if married without parent's or guardian's consent where the girl is under 18 and the boy under 21.

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Perforce of the statute, the title to the wife's separate real estate or her right in the homestead may pass only through a conveyance executed in the manner required by law and nothing she may do will take the place of such instrument, neither acquiescence, ratification, waiver or estoppel will preclude her recovery, and it is well settled that she is not estopped by her invalid deed to recover her property upon the plea she has accepted and retained the consideration therefor. A purchaser must be held to know as a matter of law that her title can only be passed in the manner prescribed by law. In matters not thus controlled by statute the rule is not so rigid and the general rule of equity applies.

9. Age of Majority.

Art. 4104, Females under 21 who have never married and males under said age are minors.

Art. 4625 provides that every female under the age of 21 who shall marry in accordance with the laws of this state, shall, from and after the time of such marriage, be deemed to be of full age, and shall have all the rights and privileges to which she would be entitled had she been at the time of her marriage of full age.

This is one of the inconsistencies of our statutes, as marriage does not emancipate the boy but it does the girl.

We recommend that you become familiar with the laws affecting women, and know what will improve and better their legal status.

League of Women Voters of Texas
6400 Douglas
Dallas, Texas

March 1950
Price: 1c

STATUS OF WOMEN

LEGISLATION WHICH WILL BE PROPOSED

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UNIFORM SUPPORT OF DEPENDENTS LAW

The bill which will be introduced will be patterned after the law which was passed by the last session of the Oklahoma Legislature. This statute may be found under Chapter 32, Title 12, Sec. 1601-1610 of the Oklahoma Statutes. This law in effect provides that parents who move after a support order for dependent children has been entered cannot escape the provisions of said order by residing in another state. The courts have found that the most effective way of enforcing these support orders has been through contempt of court proceedings, and the contemplated bill would enable the Texas courts to enforce not only its orders in other states but would also enable the Texas courts to enforce orders from other states. This is much needed legislation as investigation will reveal by talking with the District Judges, your District Attorney and the Juvenile Departments. Many parents are now avoiding support orders by simply moving out of the State in which the order was entered.

LAWS WHICH NOW DISCRIMINATE AGAINST MARRIED WOMEN

There will be introduced a bill to repeal existing statutes which discriminate against women in the management and ownership of property. Married women in Texas cannot make a contract of any kind without the joinder of their husbands, even though the property be their separate estate. On the other hand the husband can dispose of any property (both his separate and all of the community except the homestead) without the joinder of the wife. The proposed legislation would give married women equal rights with their husbands in dealing with the community and permit her to handle her separate estate in the same manner which the law permits the husband to handle his separate estate. The present statutes may be found in Chapter 3, Title 75, Articles 4613 to 4627 of the Revised Civil Statutes of Texas.

-- Margaret A. Brand
State Chairman, Status of Women

Publication Announcement

We have in the State Office a speech of Mrs. E. A. McDaniels, Mission, Texas, on conditions of women in Texas. This may be procured from the State Office for 15¢ a copy.

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6400 Douglas
Dallas, Texas

March, 1950
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LAWS WHICH DISCRIMINATE AGAINST WOMEN IN TEXAS

-- by Margaret A. Brand, Attorney
Status of Women Chairman

1. The Right to Serve on Juries

The right of a trial by a jury is guaranteed by our state Constitution, and has been recognized since the earliest days of our Republic before our statehood. Under Sec. 19 of Article XVI it is provided: "The Legislature shall prescribe by law the qualification of grand and petit jurors."

Under Art. 2133 Revised Civil Statutes of Texas the qualifications are given as follows:

All men over 21 years of age are competent jurors unless disqualified under some provision of this chapter. And then are given the seven qualifications.

Women are not permitted to serve on juries in Texas.

2. Age of Marriage

Art. 4603 Rev. Civ. St. provides that males under 16 and females under 14 shall not marry.

Art. 4605 provides that the consent of the parent or guardian must be secured unless the parties applying shall be 21 years old in the case of the male and 18 years of age in the case of the female before the clerk shall issue a marriage license.

3. Management and Disposition of Property

Under Art. 4614. Wife's separate property. All property of the wife, both real and personal owned or claimed by her before marriage and that acquired afterwards by gift, devise or descent, as also the increase of all lands thus acquired, shall be the separate property of the wife, and she shall have the sole management, control and disposition of same but it is necessary that she have the joinder of her husband in conveying or encumbering, also in the transfer of stocks or bonds. Const. Art. 16, p. 15.

Her joinder is not required in similar transactions of the husband of his separate property.

Under Art. 4615. Compensation for personal injuries to wife shall be her separate property except such actual and necessary expenses as may have accumulated against the husband for hospital fees, medical bills and all other expenses incident to the collection of said compensation, but the Commission of Appeals has held impliedly this Article unconstitutional in Fairchild v. Davis, 15 S. W. 2 585.

Art. 4619 provides that all property acquired by either the husband or wife during marriage, except that which is the separate property of either, shall be deemed the common property of the husband and wife and during coverture may be

disposed of by the husband only, provided if the husband shall have disappeared and his whereabouts remain unknown to the wife continuously for more than twelve months, the wife shall after such period and until the husband returns to her and an affidavit filed for record, have full control, management and disposition of the community property, with the same powers as are conferred by law upon the husband and her acts shall be as those of a feme sole.

This means, of course, that the husband may convey any and all community property without the wife's signature or knowledge, except the homestead and although she has a one-half interest in the community property, he could have it all disposed of, except the homestead, and spend the money before she knew anything about it. She has no power to convey or dispose of any of the community property without the joinder of her husband, except in the contingency mentioned in the latter part of Art. 4619 quoted above.

4. Right to Contract

The wife may contract for necessities for herself and children and under Art. 4621 the community property shall not be liable for any other contract of the wife, and under Art. 4623 neither the separate property of the husband nor the community other than her personal earnings and the income, rents and revenues from her separate property shall be subject to debts contracted by her except for necessities furnished herself and children, and she may not contract to encumber or convey her own separate property without the joinder of her husband.

If a wife enters any kind of business, she cannot sign a contract on which she or her separate or the community property could be held without the joinder of her husband, and in order to do business without this handicap, she has to have her disabilities of coverture removed and her husband is required to give his permission. If he refuses she has to go into the District Court to enforce such removal.

5. Right to Sue and Be Sued

It is possible for a wife to sue in her own name but in ordinary cases she should be joined her husband if she sues or is sued.

6. Grounds for Divorce

Are six and are the same for either husband or wife, except Nos. 2 and 3, which read as follows: Art. 4629.

(2) In favor of the husband, where his wife shall have been taken in adultery, or where she shall have voluntarily left his bed and board for the space of three years (3) with the intention of abandonment.

(3) In favor of the wife, where the husband shall have left her for three (3) years with the intention of abandonment, or where he shall have abandoned her and lived in adultery with another woman.

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