
Documents in Modern History

Women's rights
Struggles and feminism in
Britain c.1770–1970

Fiona A. Montgomery

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Introduction

Women in the 1780s had few rights, especially if married: they could not vote, make a contract, sue or be sued in their own names and their earnings or incomes belonged to their husbands. By the 1970s, the situation had changed: full enfranchisement had been secured in 1928 and equal pay and an end to sexual discrimination in theory, if not always in fact, had been secured. Women had struggled over two centuries with progress not being linear. Not all of women's rights were secured solely by the activity of women themselves. The equality legislation of the 1970s, for example, owed a debt to the European Union.

Furthermore, one of the greatest boons for women was the advent of effective contraception which both gave women improved health and released them from the burden of raising and nursing children almost constantly throughout their adult lives. Prior to this, between the ages of twenty-five and forty a woman was almost always either pregnant or nursing a child. Smaller families with two children born closer together freed women to go into employment. However, this was not as simple as it might seem. Having fewer children meant that women were now expected to devote more time to parenting, and any defects in children's behaviour such as juvenile delinquency were laid at the mother's door. Women were still responsible for the majority of domestic tasks and when men helped with childcare, they tended to do the more rewarding aspects (the ones which women enjoyed!) such as playing with their children rather than nappy changing.

Opportunities by the 1970s had been widened therefore, but equality was still not achieved. Within the labour force, women remain underrepresented in many areas and even now are paid less. Women continue to suffer domestic violence to a greater extent than men and many are still sexually exploited. And, it was not until the 1990s that

working-class women benefited from the educational reforms to the same extent as the middle classes.

For convenience this collection of documents is divided into seven themes: law, marriage and family, education, work, politics, health and sexuality. These chapters are not, however, exclusive with many documents at home in more than one section. Thus the struggle to gain the right for a woman to choose whether or not to have an abortion would be equally valid in both chapters on health and sexuality.

The book begins with law since it was law which created contemporary understanding of what constituted 'a woman' and the behaviour she should follow. Over the period, women gained rights over their children, their own bodies as well as a political presence. Care must be taken, however, with the use of the category 'woman'. All women did not have the same work experience: class and later ethnicity affected women's lives.

The chapter on marriage, motherhood and the family details changes in family structure and size which also reflected class difference. In the 1780s, the end of marriage was usually occasioned by death, by the 1970s divorce was common and more couples were making a definite decision to cohabit. Feminists in the late nineteenth century highlighted the lack of financial independence for women within marriage and campaigned for this to enable women to be in a position to make a genuine choice as to whether to marry and not simply be forced into marriage since there was no viable alternative to it. Instead of being a commercial contract, marriage would then move towards a relationship of equality. This would be furthered by granting women custody rights over their children, making divorce available to them and containing domestic violence – all of which required legal action, again demonstrating the cross-over between themes.

Education and work are similarly intertwined. Writers such as Mary Wollstonecraft were aware of the need to provide careers for women to ensure financial independence and this in turn required an education moving beyond mere 'accomplishments'. For a time, working-class girls enjoyed a superior education to that of their middle-class sisters. Women were reckoned to possess a form of 'moral superiority' which gave them a unique understanding of the needs of mothers, children, the sick and the weak and allowed middle-class women to take part in activities related to these areas. Women's war work revealed that women could do men's jobs whether it be in engi-

neering, on the land, transport or in the civil services. Such gains in educational opportunities were to be short-lived as far as World War I was concerned and it was only labour shortages in the 1950s which occasioned more part-time work for women. World War II however led to the creation of a 'cradle to the grave' welfare state which with the foundation of the National Health Service improved women's health.

In whatever area women were concerned, they always had to overcome the conviction that a woman's place was in the home to enable them to speak out and campaign. This was particularly true in relation to politics and sexuality thus there was a tendency initially to keep sex campaigns separate to avoid negative publicity. Women were aware of such constraints. Paradoxically too, while it may have been more difficult in one sense for middle-class women to protest in public, in another they had all the advantages of time, connections and money given by their class. The sexual revolution however highlighted the position of the unmarried. Having been despised as an old maid, she was also of value due to the help she provided within the family unit, now, however, the unmarried began to be considered sexually abnormal.

Interdependence therefore is evident throughout the chapters: women's position in the work-force simply reflected their subordinate place within the family. And, many of the areas where women took political action were influenced by this concept of this role as a wife and mother. Thus, some Chartist women analysed the need for political action in terms of safeguarding the working-class family and its values.

Each chapter begins with a general introduction within which references to the extracts are given in bold. Thus, in Chapter 1 Law, p. 9, 'Her earnings belonged to her husband which meant that he could even claim her benefits from a Friendly Society (1.2), the (1.2) refers to document 1.2. This enables the reader to follow the argument through the sources. Each extract has been given a title to give an idea of its content.

Any selection of documents is bound to disappoint some. For reasons of space, each chapter cannot deal in depth with all aspects of the topic. It is intended to introduce the reader to the wealth of primary material. The collection deals primarily with England with little on the Celtic fringe. As far as the black history is concerned, an attempt has been made to include reference to experiences in work,

health and politics, but a separate book could be written on these topics.

The extracts are chosen from a wide variety of sources. As always, the authenticity of each source must be examined. Nothing must be taken at face value. As well as considering the authorship of the document, it is important to establish whether the person setting down the account is near enough in time and close enough geographically to provide an accurate rendition; did the author have a vested interest in setting down a biased account?; what was the purpose of it?; what was the document's intended audience? As E. P. Thompson wrote, sources must 'be interrogated by minds trained in a discipline of attentive disbelief'.¹ Equally modern meanings must not be read into the past.

Sheila Rowbotham's *Hidden from history*,² written in 1973 under the influence of the women's lib movement, the second war of feminism and the general broadening of social history to include topics such as the family and sexuality, explained how women had been hidden not simply by the survival of, or the ways in which, evidence had been recorded, but also because male historians had not asked questions of these sources in such a way as to uncover women's experience.³

In line with such thinking, Davidoff & Hall's study *Family fortunes* (1987) revealed that middle-class men working in the business world relied, to an extent previously unknown, on networks of familial support – such support was often crucial to a man's successful rise in the public sphere.⁴

Davidoff & Westover commented in 1986 that, in regard to women's history,

documentary sources are often partial and inadequate. Not only is the experience of women filtered through the eyes of social commentators, most of who (sic) were men, but there are substantial gaps in the documentary evidence about what women were doing. Women's lives have been considered trivial and unchanging and thus unworthy of serious historical study, particularly in their domestic role.⁵

They therefore advocated the use of oral history to fill in the gaps.

There is no doubt that women were seen as someone's wife, daughter, mother or sister and that official sources do have many deficiencies. However evidence from Acts of Parliament, parliamentary commissions, and Hansard can throw light on official attitudes. Such

evidence is buttressed by material from *inter alia* the unstamped press, suffrage pamphlets, the Women's Labour League, surveys on housing, living conditions, sexuality. Where possible the extracts are by women themselves: what did they hope to achieve and why? They illustrate not merely what women did, but also provide examples of both the processes which enabled women to act as they did and the boundaries that retarded their activities. Great use is also made of *The Times* which not only provides information on what was happening on a daily basis but also gives an example of contemporary attitudes. Even here however, the question of the audience must still be considered. In the actual extracts the imperial system of measurement is retained.

Over the last thirty years, 'women's history' has moved from a position of recording achievements and returning women to history books, to a situation where feminist historians studied women on their own terms. Instead of being viewed as victims, women are now agents of the historical process. This collection of documents chronicles these changes.

Notes

- 1 E. P. Thompson, *The poverty of theory*, London: Merlin Press (1978), pp. 220–1.
- 2 S. Rowbotham, *Hidden from history*, London: Pluto Press (1973).
- 3 For a review of developments in women's history, see F. A. Montgomery, 'Historiography: Feminist and women's history' in *Readers guide to British history*, London: Fitzroy Dearborn (2003), pp. 640–2.
- 4 L. Davidoff & C. Hall, *Family fortunes*, London: Hutchinson (1987).
- 5 L. Davidoff & B. Westover, *Our work, our lives, our words*, London: Macmillan (1986), p. ix.

1

Women and the law

Timeline

- 1753 Hardwicke's Marriage Act.
- 1801 Addison/Campbell Divorce Act.
- 1839 Custody of Infants Act: mother given custody of children under seven years old.
- 1857 Matrimonial Causes Act: men could divorce women for adultery. Women had to prove cruelty, incest, sodomy etc in order to divorce men.
- 1870 Married Women's Property Act.
- 1873 Custody of Infants Act.
- 1878 Matrimonial Causes Act: separation with maintenance to wife.
- 1882 Married Women's Property Act: married women had right to separate ownership of property from husband.
- 1884 Married Women's Property Act.
- 1884 Matrimonial Causes Act: aggravated assault grounds for judicial separation.
- 1885 Criminal Law Amendment Act: age of consent raised to sixteen.
- 1886 Guardianship of Infants Act: women could be sole guardian if the husband died.
- 1918 The Representation of the People Act: gave vote to all men over twenty one and women over thirty years old.
- 1918 Maternity and Child Welfare Act: local authorities appointed committees to oversee the welfare of mothers and children.
- 1919 Sex Disqualification (Removal) Act: opened upper ranks of Civil Service and Law to women.
- 1922 Married Women's Maintenance Act: some maintenance under separation orders.
- 1922 Irish women receive vote with creation of Irish state.

Women and the law

- 1923 Matrimonial Causes Act: women have right to sue for divorce on grounds of adultery.
- 1923 Bastardy Act: increased the payments by fathers to their illegitimate children
- 1923 Guardianship of Infants Act: gave divorced women the right to the custody of children.
- 1928 Equal Franchise Act: women received vote on same basis as men.
- 1937 Divorce Act: desertion and insanity grounds for divorce.
- 1944 Equal Citizenship Act.
- 1945 Family Allowances Act: gave benefit of 5s for first child.
- 1946 National Insurance Act.
- 1964 Married Women's Property Act.
- 1967 Medical Termination of Pregnancy Act: legalised abortion on medical grounds.
- 1967 Family Planning Act: enabled local authorities to provide advisory birth control services.
- 1969 Divorce Reform Act: divorce could be granted after two-year separation if both partners wanted it or after five-year separation if one wanted it.
- 1970 Matrimonial Property Act: gave wife an equal share in family assets.
- 1970 Equal Pay Act: established the principle of equal pay. Gave private companies five years to bring in equal rates of pay for men and women.
- 1971 Attachment of Earnings Act.
- 1971 Industrial Relations Act: restricted workers' rights.
- 1973 Guardianship Act.
- 1975 Sex Discrimination Act: discrimination on grounds of gender made illegal.
- 1976 Domestic Violence and Matrimonial Proceedings Act: made injunctions against, and arrests of, violent abusers easier.

A woman's legal position illustrates most clearly her role within society. In the eighteenth century, the law excluded women from all professions, deprived them of political rights and subjected them to men. The law therefore created the legal category 'woman' and determined what behaviour should be considered normal. A woman who broke the law was not simply committing a crime but was also violating society's expectations of her sex.

While marriage was the desired goal and purpose of life for women of all classes, in legal reality it meant the end of an independent existence. As Blackstone, the celebrated eighteenth-century jurist, noted (1.1), 'the very being, or legal existence of the woman is suspended during the marriage'. This had far-reaching consequences. She lost the rights she had enjoyed as a feme sole (a single woman). She could not sue, make a contract and she had no rights over any property she may have had (that now belonged to her husband). She could write a will but her husband could disregard it on her death. Her earnings belonged to her husband which meant that he could even claim her benefits from a Friendly Society (1.2). She could be confined to a lunatic asylum on her husband's say-so up till the Mad Houses Act 1774 which then required a medical certificate before admission though this could be easily circumvented. And, perhaps of greatest concern, she had no rights over her children.

Furthermore, if the husband turned violent or abandoned his wife, the chance of any legal redress was minimal though at times there were exceptions. (1.3) Divorce was extremely difficult to obtain even for a man, and for a woman was near impossible. There were only four petitions by women in the period before 1857. If an Ecclesiastical annulment was not possible, the husband had to obtain a decree of divorce from the Ecclesiastical Court. This had to be followed by a successful claim for damages for 'criminal conversation' ('crimcon'), by proving adultery, then the action could proceed to a bill for divorce culminating in a private Act of Parliament. Divorce in practice, then, was for wealthy males and its financial costs even for a man could be ruinous. (1.7)

The laws governing marriage were extremely slack prior to Hardwicke's Act of 1753. Marriages could be contracted by children aged as young as seven, though not consummated until puberty (fourteen in boys, twelve in girls). Hardwicke's Act, however, ended legally all kinds of clandestine marriage. Marriage had to include parental consent (if both parties were not at least twenty one) and the calling of banns and the formal ceremony had to take place in a church. (1.4) The main aim behind this Act, however, was to protect inheritance, and therefore the wealthy, by outlawing unsuitable unions – parents could prohibit any marriage they considered unsuitable. It was not designed to bring any more rights to women.¹ In 1801 the first divorce Act granted to a woman was that of Jane Campbell (Addison/Campbell Divorce Act). Campbell was granted a divorce from her husband,

Edward Addison, on the grounds of his adultery with her sister, Jessy Campbell. Very unusually she was also awarded custody of her children. (1.5) A promise of marriage was taken very seriously and thus jilting led to a breach of promise case. (1.6)

The practical consequences of a woman's position were illustrated in a high profile case concerning Caroline Norton, the granddaughter of Sheridan the playwright. Married to a brutal husband who physically abused her, she found that he had the right to forbid her to see her three young sons. Her husband took out an action for criminal conversation with the then Prime Minister, Lord Melbourne. Whatever way the action went, Caroline would lose her children despite the fact that she had not committed adultery or left her husband. She had no right to apply for a legal hearing because as a married woman she had no legal existence. Public opinion was against her because she had behaved in a way inappropriate for women. She should have been docile and passive, accepting of her lot.

Her pamphlet, *The separation of mother and child by the law of custody of infants considered*, 1837, pointed out that a father could give his child to a stranger and that it was totally unacceptable that a father should be able to deprive the mother of her children. Norton asked that mothers should have custody of children under the age of seven and that the custody of older children should be decided by the courts. This was denounced both inside and outside Parliament. John Kemble predicted dire consequences, claiming that it would lead to the breakdown of society. (1.8) As a result of Norton's efforts the Infant and Child Custody Act was passed in 1839. Children under seven could now live with their mother providing the Lord Chancellor agreed and the mother was of good character. Ironically, since Caroline's children were now in Scotland, English law did not cover her, and indeed her youngest child William died after a riding accident without her being there. Her husband then relented and let the two remaining boys live with her for part of the year.

Caroline Norton was followed by other women and the occasional man (1.9) eager to change the laws regarding divorce, married women's property, child custody and maintenance for married women. Barbara Leigh Smith (later Bodichon) and a group of like minded women who became known as the 'Langham Place Circle' petitioned Parliament that married women's property be treated the same as men's. This got nowhere but they continued to campaign for relevant clauses to be inserted into the 1857 Divorce and Matrimonial Causes

Act. (1.10) This Act did include some provision for married women's property, but only if the woman had been deserted. The 1857 Act set up one court in London to grant divorces which made it very difficult for the working classes to have access to it. It also enshrined the double standard: men could divorce on grounds of adultery alone but not women. A woman had to prove that her husband was guilty of rape, sodomy or bestiality; or, if she was suing on the grounds of adultery this had to be coupled with incest, bigamy or cruelty. This reflected the idea that adultery was the most serious offence a woman could commit within a marriage because it raised the possibility that children might not be legitimate and therefore inheritance could pass to a bastard. In contrast, a man's adultery was considered trivial.

The 1878 Matrimonial Causes Act largely resulted from the efforts of Frances Power Cobbe. It enabled magistrates to grant writs of separation to women whose husbands had been convicted of aggravated assault. This did not allow remarriage. Designed to protect working-class women, it made clear that husbands did not have the right to chastise their wives physically.

Married women's property continued to exercise reformers. Frances Power Cobbe wrote a stinging critique in *Fraser's Magazine* of existing practice, pointing out that it could not be justified in terms of justice, expediency or sentiment. (1.11) The Married Women's Property Act of 1870 gave married women the right to their own earnings. (1.12, 1.13) A woman could now insure her own life or that of her husband and take an action in her own name for recovery of any of her separate property. This was followed in 1882 (1.14) by another Act which gave wives the right to retain their own property after marriage though they still had no legal residence apart from their husbands' and courts could enforce 'conjugal rights'. Furthermore, if she had the means, she was now liable to maintain her husband and children. (1.15) She was also subject to bankruptcy. The 1885 Criminal Law Amendment Act raised the age of consent from twelve to sixteen and brought in new measures against disorderly houses, procuration and abduction. This was used by the NSPCC to secure prosecutions for incest with girls under sixteen. The Act also included a clause on male gross indecency (Labouchere Amendment).

While these measures were useful, women were still a long way from equal rights. Accordingly, feminists began to campaign for the vote on the grounds that this was the only real measure which would

lead to improvement.² By the end of the nineteenth century, married women's rights had been enlarged but were by no means equal to those of men.

The First World War re-opened the franchise issue. While not all men had had the vote under the old system, or those who had had it may have disenfranchised themselves by moving away, it was no longer possible to justify denying members of the armed forces the vote. The problem as far as politicians were concerned was how to limit the number of women in the electorate since women as a whole made up a larger percentage of the population. The Representation of the People Act 1918 gave full manhood suffrage with a voting age of twenty one. Women, however, were subjected to two restrictions: an age qualification of thirty and the need to be eligible for local government franchise either on their own or their husband's behalf. This meant owning or occupying land or premises worth £5 a year. All working-class men now had the vote but many working-class women did not. However, in 1928 women's struggle for the vote was finally successful when the Conservative government passed the Equal Franchise Act granting the vote on the same terms as men.

The Sex Disqualification (Removal) Act (1919) said that 'A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or for admission to any incorporated society . . . and a person shall not be exempted by sex or marriage from the liability to serve as a juror'. (1.16) This Act gave women restricted entry to the higher echelons of the Civil Service (if they were unmarried – there was still a *de facto* marriage bar) and allowed them to sit on juries, though again there was a property qualification and magistrates were often unwilling to allow women jurors on any cases which they thought would harm their sensibilities, so for example they would often cough if a sex case was coming up, to warn women off. Women could now become magistrates, join the legal profession and go to Oxbridge. It is important to note, however, that though this Act removed some disabilities there was no mention of equal pay.

The Times 14 November 1922 (1.17) highlighted the position women were still in, even after the end of World War I. Arguing for a change in the divorce laws not 'to encourage a disrespect for the

marriage bond' but in line with the Social Purity Movement, it pointed out the injustice of insisting women stayed married to lunatics or those suffering from a hitherto undisclosed disease, which was a thinly disguised reference to venereal disease. Furthermore it took issue with the question of actions for breach of promise, pointing out that marriage was not comparable to a 'purely commercial agreement' and therefore it was completely untenable to force a couple to submit to marriage under such circumstances.

The National Council of Women also pointed out that women still needed their husbands' consent when they were to have an operation, thereby emphasising their position as men's property. (1.18) The Matrimonial Causes Act 1923 put women on an equal footing to men by enabling them to obtain a divorce solely on the grounds of adultery. A woman could also petition on the grounds of her husband's 'unnatural' offences, though for once, the husband did not have a reciprocal right. He had to prove that unnatural practices had injured his health, thus making a case for cruelty. The 1937 Divorce Act made desertion and insanity grounds for divorce. The Married Women's Property Act of 1964 (1.21) gave husbands and wives the right to 50 per cent of any money saved by the wife from the housekeeping, unless there was an agreement to the contrary. In contrast, a man did not have the right to half the savings he had made from any allowance given to him by his wife.

The Matrimonial Homes Act 1967 gave both husband and wife the right of occupation of the matrimonial home. Neither could be evicted from the marital home without a court order. Women could also make mortgage payments even if the mortgage was in the husband's name. This enabled wives to ensure that the home was not lost because of a husband defaulting on the payments. The Matrimonial Proceedings and Property Act 1970 gave courts discretion to distribute joint assets of a husband and wife on a fair and equal basis according to the contribution each had made to the marriage. In dividing family assets, judges tended to award wives one third and husbands two thirds on the grounds that they would have greater expenses since they would probably be supporting two homes. (1.23) By the third quarter of the twentieth century then, while women had made strides forward, they were still not equal in law to men.

1.1 Legal position of married women

By marriage the husband and wife are one person in law: that this, 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 everything; . . .

For this reason, a man cannot grant anything to his wife, or enter into covenant with her, for the grant would be to suppose her separate existence: and to covenant with her, would be only to covenant with himself: and therefore it is also generally true, that all compacts made between husband and wife, when single, are voided by the intermarriage . . .

If the 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: neither can she be sued, without making her husband a defendant . . .

. . . A woman's personal property, by marriage, becomes absolutely her husband's which at his death he may leave entirely away from her: but if he dies without will, she is entitled to one third of his personal property, if he has children, if not to one half . . .

By the marriage, the husband is absolutely master of the profits of the wife's lands during the coverture; and if he has had a living child, and survives the wife, he retains the whole of these lands, if they are estates of inheritance during his life: but the wife is entitled to dower, or one third if she survives, out of her husband's estates of inheritance; but this she has whether she has had a child or not.

. . . With regard to the property of women, there is taxation without representation; for they pay taxes without having the liberty of voting for representatives.

Sir William Blackstone, *Commentaries on the Laws of England* (1753) edited by Wayne Morrison, London: Cavendish Publishing (2001), vol. 1, pp. 441-5.

1.2 Women's earnings belong to her husband

Of Friendly Societies

I have been led to these reflections, by investigating the situation of some Female Benefit Clubs, which seem to be exposed to peculiar disadvantages,

in conference of the legal disability which married women labour under, of retaining the earnings of their labour in their own hands. Most of these Clubs are chiefly composed of married women; as the principal inducement to enter into them, is, to insure a decent subsistence during the laying-in month; a period, in which, of all others, a labourer's wife is in most need of extrinsic assistance. The laudable objects, however, of these excellent institutions, may be entirely frustrated by the exercise of that legal authority with which a husband is invested. As he is entitled to receive his wife's earnings, he can not only prevent her from paying her regular subscriptions to the Club: but if she falls sick, he is, I conceive, no less authorized by law to demand the allowance which is granted by the Society, and to appropriate it to his own use.

F. M. Eden, *The state of the poor or, an history of the labouring classes in England, from the conquest to the present period*, London: J. Davis (1797), p. 630.

1.3 Doctors Commons

A cause came on to be tried in Doctors Commons,³ between an eminent tradesman in Piccadilly, and his wife, for repeated acts of cruelty, adultery, and giving her the foul disease, and other ill usage, when, after many learned arguments, (the innocence of his wife not being in the least impeached) the judge pronounced the man to have been guilty both of the cruelty and the adultery, and divorced the woman from her husband, and condemned him in full costs, to the satisfaction of the whole court.

Annual Register, 11 December 1767.

1.4 Hardwicke's Marriage Act 1753

The consent or concurrence of the parent to the marriage of his child under age, was also *directed* by our ancient law to be obtained: but now it is absolutely *necessary*; for without it the contract is void. And this also is another means which the law has put into the parent's hands, in order the

better to discharge his duty; first, of protecting his children from the snares of artful and designing persons, and next, of settling them properly in life, by preventing the ill consequences of too early and precipitate marriages.

The offence of *clandestine marriages*: for by the statute 26 Geo. II, c. 33 l. To solemnise marriage in any other place besides a church, or public chapel wherein banns have been usually published, except by licence from the archbishop of Canterbury; – and, 2. To solemnise marriage in such church or chapel without due publication of banns, or licence obtained from a proper authority; – do both of them not only render the marriage void, but subject the person solemnising it to felony, punished by transportation for fourteen years: as, by three former statutes, he and his assistants were subject to a pecuniary forfeiture of 100l. 3. To make a false entry in a marriage register; to alter it when made; to forge or counterfeit, such entry, or a marriage licence: to cause or procure, or act or assist in such forgery; to utter the same as true, knowing it be counterfeit; or to destroy or procure the destruction of any register, in order to vacate any marriage, or subject any person to the penalties of this act; all these offences, knowingly and wilfully committed, subject the party to the guilt of felony without benefit of clergy.

Sir William Blackstone, *Commentaries on the Laws of England* (1753), vol. 1, p. 453; vol. 4, para. 163.

1.5 Amendment to the Addison/Campbell divorce Bill 1801 [main papers, 13 March 1801]

'And in order to secure as far as Circumstances will admit the virtuous education of the Children of the said Jane Campbell Be it Declared and Enacted that it shall not be lawful for the said Edward Addison to remove his daughter from the Care and Custody of her Mother during her Minority and that the Son and Daughter of the said Edward Addison shall during their respective Minorities be deemed and taken to be to all Intents and Purposes Wards of the High Court of Chancery.'

Private Act, 41, Geo III c.102
HL/PO/PB/1/1801/41G3n287

1.6 Breach of promise of marriage

Chapman against Shaw

The Plaintiff Wife Elizabeth Chapman, brought this action against the Defendant, Mr Shaw who is by profession an Attorney, to recover a satisfaction in damages for a very serious injury to wit for a breach of a promise of marriage. On the part of the Plaintiff a great variety of witnesses were called most of whom were her own near relations. They provided that for near the space of two years the Defendant had visited almost every day at the house of the Plaintiff's father, that he had repeatedly promised to marry her, that preparations were made for the purpose and the time fixed when the marriage should be solemnized. That he had declared he could not be happy without her. But without the least reason on the part of the Plaintiff the Defendant had married another Lady.

A very able defence was made to this action. It was agreed on all hands that the Plaintiff is a young Lady of the strictest virtue and integrity, and belonging to a very respectable family of Holborn. There was as little doubt but that the Defendant was descended of very respectable parents in Yorkshire and the twelfth son of the family.

Lord Kenyon summed up the substance of the evidence to the Jury, accompanied by a number of excellent observations on the nature of the offence and the favourable circumstances that appeared for the Defendant.

Verdict for Plaintiff.

The Times, 24 May 1790.

1.7 Effects of divorce laws

5 May 1843

Sir, – I was very glad to see your remarks in *The Times* of last Friday, on the existing divorce laws of this country, of the hardship and cruelty of which I afford in my own person a striking instance.

A few years since, having then a family of three children, my wife fell a victim to the arts of a seducer. I brought my action against him and obtained a verdict for trifling damages. I was then induced to proceed in the Ecclesiastical Court for a divorce, not conceiving it possible that any opposition should be offered. The woman, however, was base enough to oppose the suit, solely for the purpose of wringing alimony out of me,

who at that time had an income of 100/. a year only, and was left with the three children on my hands.

This claim for alimony the Court of Arches allowed to the extent of 40/ a year, although the woman was living at the time in open adultery with her seducer.

Well, after the proceedings had been pending a year, I obtained a decree for a divorce.

The expenses of these proceedings have brought me actually to the verge of a prison, in which I shall to all appearance be incarcerated in a very few days. All this, miserable as it is, I would have submitted to cheerfully, if it would have freed me from my bonds and enabled me to marry again, but the absurd existing laws on the subject of divorce sentence me, in addition to the sufferings in mind, body, and estate which I have endured, to perpetual celibacy, and deprive my children of proper care, because I have no money to take me through the House of Lords.

I do entreat the favour of you again to devote a portion of a column to the advocacy of an alteration in this state of things.

I am, Sir, your very obedient servant, S.N.

The Times, 5 May 1843.

1.8 Opposition to Norton's law of custody

... If this last and strongest and only effectual prevention still existing against separation, (viz. the certain assurance in the mind of every wife, that, if she will desert her husband's house, the sphere of her duties, and, be it ever so remembered, the only proper home of his children, she does ipso facto lose the right of access to them,) – if this prevention be once taken away, it is as certain as anything in the whole world of direct cause and effect, that separations will increase! You cannot diminish the checks to licentiousness without increasing the chances of their occurrence! ...

... What is manifest, as to the operation of the Bill, is this; that it directly violates the great fundamental law of society, the law of paternity; it directly annuls the father's right to have sole command in his own house, and over his own legitimate children, whilst the same responsibility for their conduct is thrown on him as ever; and this we affirm to be grossly unjust, and therefore grossly immoral ...

... This sole and absolute power over the children, to the exclusion of everyone else, is a fundamental right vested in the man, as man and father, from the beginning. The paternal power is the oldest and most sacred right belonging to a man – the right that ought to be most religiously guarded. Such being the doctrine deducible from the authority of the Christian Scriptures, Sergeant Talfourd's Custody of Infants Bill, that proposes to destroy this right is therefore directly antichristian.

J. M. Kemble, 'Custody of Infants Bill', *British & Foreign Quarterly Review*, 7 (1838), pp. 269–411.

1.9 Of less value than poodle dogs

Mr. Fitzroy has just brought before the House of Commons the startling principle of English law that women are of less value than Poodle dogs and Skye terriers. They do not receive the same measure of protection as these nobler quadrupeds. Where punishment consists in fines, of course the amount of the fine affords us a certain measure of value as to the worth of the object injured. Any peculator who infringes against the provisions of the Dog Stealing Act may be imprisoned with hard labour for a period of six months, or be sentenced to pay a fine not exceeding £20. With regard to women, any man may, at his pleasure, kick, bruise, beat, knock down, and stamp upon them, and all that the magistrate can inflict by way of summary punishment is a fine of £5, or, in default, two months' imprisonment with hard labour. It would be a very material improvement in the position of women if a short clause were introduced into the Cruelty to Animals Act which should include them in the provisions of that beneficent statute. All that would be necessary would be, 'And be it enacted that for the purposes of this act any woman or women, shall be taken and held to be ewes, donkeys, cats, dogs, and not otherwise; and that any person or persons who shall be proved to have inflicted bodily injury upon any woman or women as aforesaid, shall undergo the same penalties and punishment as though he had inflicted bodily injury upon any of the ewes, donkeys, &c., as aforesaid.'

Now, Mr. Fitzroy wishes that women should at least be placed upon the same footing as the lower animals, and receive the same amount of protection from the law.

The Times, 12 March 1853.

1.10 Divorce and Matrimonial Causes Act 1857

The Property of Deserted Married Women

On Monday next the following provision in the Divorce and Matrimonial Causes Act (the 20th and 21st of Victoria chap. 85) will come into operation with respect to the property and earnings of deserted married women. Section 21 – 'A wife deserted by her husband may at any time after such desertion, if resident within the metropolitan district, apply to a police magistrate, or if resident in the country to justices in petty session, or in either case to the Court, for an order to protect any money or property she may acquire by her own lawful industry, and property which she may become possessed of, after such desertion, against her husband or his creditors, or any person claiming under him, and such magistrate or justices or Court, if satisfied of the fact of such desertion, and that the same was without reasonable cause, and that the wife is maintaining herself by her own industry or property, may make and give to the wife an order protecting her earnings and property acquired since the commencement of such desertion from her husband, and all creditors and persons claiming under him, and such earnings and property shall belong to the wife as if she were a *feme sole*; ... If any such order of protection be made, the wife shall, during the continuance thereof, be and be deemed to have been, during such desertion of her, in the like position in all respects with regard to property and contracts, and suing and being sued, as she would be under this Act if she obtained a decree of judicial separation.'

The Times, 5 January 1858.

1.11 Married women's property

... many husbands are unable, from fault or from misfortune, to maintain their wives. Of this the law takes no note, proceeding on reasoning which may be reduced to the syllogism:

*A man who supports his wife ought to have all her property;
Most men support their wives;
Therefore, all men ought to have all the property of their wives ...*

The legal act by which a man puts his hand in his wife's pocket, or draws her money out of the savings' bank, is perfectly clear, easy, inexpensive. The corresponding process by which the wife can obtain food

and clothing from her husband when he neglects to provide it – what may it be? Where is it described? . . . what is the actual fact? Simply that the woman's remedy for her husband's neglect to provide her with food, has been practically found unattainable. The law which has robbed her so straight-forwardly, has somehow forgotten altogether to secure for her the supposed compensation . . . So much for the Justice of the Common Law. What now shall we say to its Expediency? . . . the husband should manage all the larger business of the family. The law then *when the husband is really wise and good* is a dead letter. But for the opposite cases, exceptions though they be, yet alas! too numerous, where the husband is a fool, a gambler, a drunkard, and where the wife is sensible, frugal, devoted to the interests of the children, – is it indeed expedient that the whole and sole power should be lodged in the husband's hands; the power not only over all they already have in common, but the power over all she can ever earn in future? . . .

But it is the alleged *helplessness* of married women which, it is said, makes it indispensable to give all the support of the law, *not* to them, but to the stronger persons with whom they are unequally yoked. 'Woman is physically, mentally, and morally inferior to man'. Therefore it follows – what? – that the law should give to her bodily weakness, her intellectual dullness, her tottering morality, all the support and protection which it is possible to interpose between so poor a creature and the strong being always standing over her? By no means. Quite the contrary of course. The husband being already physically, mentally, and morally his wife's superior must in justice receive from law additional strength by being constituted absolute master of her property . . .

Frances Power Cobbe, 'Criminals, idiots, women & minors', *Fraser's Magazine*, 78 (1868), pp. 782–6.

1.12 An Act to amend the law relating to the property of married women (9 August 1870) 33 & 34 Vict., c. 93

1. The wages and earnings of any married woman acquired or gained by her after the passing of this Act in any employment, occupation, or trade in which she is engaged or which she carries on separately from her husband, and also any money, or property so acquired by her through the exercise of any literary, artistic, or scientific skill, and all investments of such wages, earnings, money or property, shall be deemed and be taken

to be property held and settled to her separate use, independent of any husband to whom she may be married, and her receipts alone shall be a good discharge for such wages, earnings, money, and property. . . .

7. Where any woman married after the passing of this Act shall during her marriage become entitled to any personal property as next of kin or one of the next of kin of an intestate, or to any sum of money not exceeding two hundred pounds under any deed or will, such property shall, subject and without prejudice to the trusts of any settlement affecting the same, belong to the woman for her separate use, and her receipts alone shall be a good discharge for the same.

8. Where any freehold, copyhold, or customary hold property shall descend upon any woman married after the passing of this Act as heiress or co-heiress of an intestate, the rents and profits of such property shall, subject and without prejudice to the trusts of any settlement affecting the same, belong to such woman for her separate use, and her receipts alone shall be a good discharge for the same. . . .

14. A married woman having separate property shall be subject to all such liability for the maintenance of her children as a widow is now by law subject to for the maintenance of her children; provided always, that nothing in this Act shall relieve her husband from any liability at present imposed upon him by law to maintain her children.

1.13 Court of Common Pleas, Westminster, May 27

Digges v. Godderer

This was a somewhat interesting case, being the first action which has raised a peculiar point under the Married Women's Property Act 1870 (33 and 34 Victoria, cap. 93) . . .

It appeared that the plaintiff, an actress, had been living apart from her husband, and had realised sufficient money to purchase some furniture, which was seized under an execution against her husband. She now claimed this furniture as her own under the 1st section of the above statute, which provides:

'That the wages and earnings of any married woman acquired or gained by her after the passing of the Act in any employment, occupation, or trade in which she is engaged, or which she carries on separately from her husband, and also any money or property so acquired by her through the exercise of any literary, artistic, or scientific skill, and all investments of such wages, &c., shall be deemed and taken to be property held and settled to her separate use, independent of any husband to

whom she may be married, and her receipts alone shall be a good discharge for such wages, earnings, money and property'.

Some portion of the property of the plaintiff arose from gifts made to her by gentlemen, who it was said, admired her artistic skill, and it was contended that Section 1 did not apply to money accruing thus, the word 'gifts' not occurring in the statute; and it was argued that the plaintiff's property could be lawfully taken in execution as the property of her husband.

The learned Judge directed a verdict to be entered for the plaintiff, and gave the defendant leave to move the Court on the points of law raised.

The Times, 28 May 1872.

1.14 Married Women's Property Bill 1882

Sir C. Campbell, said he felt bound to protest against this Bill [Married Women's Property bill. 1882], which effected a complete social revolution. Not a woman in a million had the slightest idea of what the Bill proposed to do, nor had the attention of the country at large been directed to its provisions. By putting on the paper a notice of opposition to this measure he had endeavoured to obtain a small medium of justice for poor married men.

Mr. Warton thought the measure one of the utmost importance. The third clause of the Bill would in effect let in restraint of marriage. No man would marry a woman with property, knowing that she could set him at defiance so long as the marriage continued. The fact that the Bill had been hurried through the House of Lords was not in its favour, and he begged the House to pause before sanctioning a social revolution.

The Times, 12 August 1882.

1.15 An Act to consolidate and amend the Acts relating to the property of married women (18 August 1882)

Be it enacted, &c., as follows:

1. (i) A married woman shall, in accordance with the provisions of this Act, be capable of acquiring, holding (a) and disposing by Will (b) or

otherwise (c), of any real or personal property as her separate property, in the same manner as if she were a *feme sole*, without the intervention of any trustee.

2. A married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract (a), and of suing and being sued, either in contract (b), or in tort (c), or otherwise, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant, or be made a party to any action or other legal proceeding brought by or taken against her; and any damages or costs recovered by her in any such action or proceeding shall be her separate property; and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property, and not otherwise.

3. Every contract entered into by a married woman shall be deemed to be a contract entered into by her with respect to and to bind her separate property, unless the contrary be shown. . . .

5. Every married woman carrying on a trade separately from her husband shall, in respect of her separate property, be subject to the bankruptcy laws in the same way as if she were a *feme sole*. . . .

13. A husband shall be liable for the debts of his wife contracted, and for all contracts entered into and wrongs committed by her, before marriage . . .

21. A married woman having separate property shall be subject to all such liability for the maintenance of her children and grandchildren as the husband is now by law subject to for the maintenance of her children and grandchildren; provided always, that nothing in this Act shall relieve her husband from any liability imposed upon him by law to maintain her children or grandchildren.

1.16 Sex Disqualification (Removal) Act 1919

. . . A person shall not be disqualified by sex or marriage from the exercise of any public function, or from being appointed to or holding any civil or judicial office or post, or from entering or assuming or carrying on any civil profession or vocation, or for admission to any incorporated society . . . and a person shall not be exempted by sex or marriage from the liability to serve as a juror.

Provided that, notwithstanding anything in this section, his majesty may by order in council authorize regulations to be made providing for and prescribing the mode of the admission of women to the

civil service of his majesty . . . and giving power to reserve to men any branch of or posts in the civil service in any of his majesty's possessions overseas, or in any foreign country; and any judge, chairman of quarter sessions, recorder or other person before whom a case is or may be heard may, in his discretion, on an application made by or on behalf of the parties . . . make an order that the jury shall be composed of men only or of women only as the case may require, or may, on an application made by a woman to be exempted from service on a jury in respect of any case by reason of the nature of the evidence to be given or of the issues to be tried, grant such exemption. . . .

Nothing in the statutes or charter of any university shall be deemed to preclude the authorities of such university from making such provision as they shall think fit for the admission of women to membership thereof, or to any degree, right, or privilege therein or in connection therewith. . . .

LVII, 325 f.: 9–10 George V, c. 71.

1.17 The legal position of women

For a considerable period proceedings in the High Court of Justice have shown that there is a real need of reform in the law relating to women . . . It is hard to see what social or religious purpose can be served by refusing to sever a matrimonial bond between an insane murderer and his wife. It is equally hard to understand what benefit there can be to the community in fettering a woman to a man who by reason of disease – undisclosed at the time of marriage – is incapable of becoming the father of healthy children. This is not a question of rendering the law of divorce so lax as to encourage a disrespect for the marriage bond. There is a serious social issue which involves the well-being of the nation. If Mrs Rutherford be right in her estimate that there are 'sixty thousand men and women tied to lunatics confined in our asylums' and 'innumerable thousands of silent sufferers' it is difficult to comprehend how there can be any public-spirited opposition to an alteration of the law. Women have been given rightly a part in the governance of the country. They have been recognised, after a long struggle, as having important duties to fulfil in our social system. They deserve, therefore, to receive better treatment under the law, and they should be made aware, at the same time, of the responsibilities of their new status. But there is another side to the question – a side on which Judges have often commented. The action for breach of promise of

marriage is a constant source of criticism. It cannot be said that it could be in the public interest that a couple should be married when one of them has lost all love for the other. There are cases, no doubt, in which the woman suffers by loss of the opportunity of making another match, or by expenditure in contemplation of matrimony, but, as Mr Justice McCardle said in a case yesterday, such actions raise a serious social question. A contract to marry cannot, or ought not to, be compared with a purely commercial agreement. As the Judge said, it is different from a bargain made in the counting-house, and an action based upon what amounts to 'a life-long contract' is in many ways 'a degrading one for the woman, because she was asking a jury to assess the commercial value of the man whose affection she had lost'. We do not quarrel with the verdict in the action which led to these remarks by Mr Justice McCardle. We must agree, however, with the dilemma which was put in the summing-up. Either a defendant has to marry a woman whom he has ceased to care for, or he had to face the ordeal of an action in the High Court. Of recent years the Divorce Court has been overburdened with work. Its task would be greater were men and women to marry without affection merely to avoid legal proceedings. As Mr Justice McCardle said, one must picture 'the married life which would follow when the woman had been led to the altar by a man under the threat of an action for breach of his promise of marriage'.

The Times, 14 November 1922.

1.18 Married women and the law

To the Editor of *The Times*

Sir, The decision in the Peel case that a married woman is presumed to be coerced by her husband when she commits certain crimes in his presence has brought vividly before the public one of the absurdities surviving in our law of married women. May we call attention to the fact that this is not the only such survival out of keeping with the more enlightened attitude now held towards married women? The law of coverture, although certain of its worst consequences were swept away by the Married Women's Property Acts, and by the decision of the House of Lords in the Jackson case, has never been abolished in its entirety. That doctrine is that a man and his wife are one person, and that the husband is that person. The wife's 'legal existence is incorporated and consolidated into that of her husband'. It is no more than 30 years since the Jackson case definitely

negated a claim that a husband had the right to imprison his wife, which was based on this doctrine.

At the same time, the wife's position as her husband's property is still in practice, as for example, when she is not allowed to decide for herself, like other adults, whether or not she shall submit to a surgical operation. Her husband must first give his consent.

We submit that these doctrines, which belong to an age of servitude and serfdom, should be explicitly annulled by legislation, so that marriage may become an equally responsible partnership, which is necessary to the building up of the highest kind of family life.

I am yours faithfully

Frances Balfour, President of the National Council of Women of Great Britain and Ireland

The Times, 22 March 1922.

1.19 Married Women's (Maintenance) Act 1922

Bills Advanced

The Married Women (Maintenance) Bill was read a second time. The Lord Chancellor said that as the law now stood the weekly maximum a man could be ordered to pay for the maintenance of his wife and family, if the wife obtained a separation order under the Summary Jurisdiction (Married Women) Act 1895 was £2. In view of the general increase in the rate of wages and the diminution in the buying power of money, the Bill proposed that the husband might further be called upon to pay 10s for each child.

The Times, 30 November 1920.

1.20 Representation of the People (Equal Franchise) Act (1918)

... For the purpose of providing that the parliamentary franchise shall be the same for men and women, sub-sections 1 and 2 of section 4 of the Representation of the People Act, 1918 (in this act referred to as

the principal act), shall be repealed, and the following sections shall be substituted for sections 1 and 2 of that act: –

... '1. A person shall be entitled to be registered as a parliamentary elector for a constituency (other than a university constituency) if he or she is of full age and not subject to any legal incapacity and has the requisite residence qualification, or has the requisite business premises qualification, or is the husband or wife of a person entitled to be so registered in respect of a business premises qualification. . . .'

'2. A person shall be entitled to be registered as a parliamentary elector for a university constituency if he or she is of full age and not subject to any legal incapacity and has received a degree (other than an honorary degree) at any university forming, or forming part of, the constituency. . . .'

For the purpose of providing that the local government franchise shall be the same for men and women, sub-section 3 of section 4 of the principal act shall be repealed, and the following section shall be substituted for section 3 of that act: –

'A person shall be entitled to be registered as a local government elector for a local government electoral area if he or she is of full age and not subject to any legal incapacity and is on the last day of the qualifying period occupying as owner or tenant any land or premises in that area, and has during the whole of the qualifying period so occupied any land or premises in that area . . . , or is the husband or wife of a person entitled to be so registered in respect of premises in which both the person so entitled and the husband or wife, as the case may be, reside. . . .'

1.21 Wife's share in house

Judgement

The Married Women's Property Act 1964 was passed on 25th March 1964 and provided by section 1 that 'if any question arises as to the right of a husband or wife to money derived from any allowance made by the husband for the expenses of the matrimonial home or for similar purposes, or to any property acquired out of such money, the money or property shall in the absence of any agreement between them to the contrary, be treated as belonging to the husband and the wife in equal shares'. That Act changed the substantive law but was retrospective in its operation and applied to events that had taken place before its commencement.

The Times, 30 July 1964.

1.22 Wife agreed to be hit on Saturday

The new ground for divorce, that since the respondent has behaved so that the petitioner 'cannot reasonably be expected to live with the respondent', was retained in the Divorce Reform Bill yesterday by the Commons Standing Committee on the Bill without a division . . .

Mr Abse (Pontypool, Labour) said, that a woman called on him professionally complaining about her husband. She was bruised and battered. He sent for the husband whose solution was that he would be content to knock his wife about only on Saturday night, instead of every night. When Mr Abse told the wife of this offer, she said: 'Saturday nights only? That will do nicely'.

Sir Elwyn Jones said that the wording of the Bill in this part was little more than reformulation of the present test of cruelty.

The Times, 25 April 1968.

1.23 Share in family assets for wives in divorce cases

By our Legal Correspondent

The Court of Appeal has laid down for the first time the guidelines to be followed by lower courts in distributing the family assets after a divorce.

Lord Denning, Master of the Rolls, made it clear yesterday that the Matrimonial Proceedings and Property Act 1970, recognised that the wife who looked after the home and family contributed as much to the family assets as the wife who goes out to work. He said: 'The one contributes in kind, the other in money. If the Court comes to the conclusion that the home has been acquired and maintained by the joint efforts of both, then, when the marriage breaks down, it should be regarded as the joint property of both of them no matter in whose name it stands'.

In the case before the courts, he said, the fairest way was for the wife to have one third of the family assets as her own, and one third of the joint earnings. She would certainly in that way be as well off as if the capital assets were divided equally, which was all that a partner was entitled to.

The Times, 9 February 1973.

1.24 Sex Discrimination Act 1975

Sex Discrimination Bill falls short of targets, women say

The Government's Sex Discrimination Bill, passing through its committee stage at Westminster as the British showpiece contribution to International Women's Year, is causing some disenchantment among women's rights campaigners . . .

Last week women demonstrators chained themselves to Westminster railings, and threw a brick through the window of Transport House in apparent ingratitude. The Women's Liberation Movement has passed resolutions dissociating itself from the Bill, on the ground that it does not cover tax, pensions, social security, industrial and marital legislation.

The main doubt about the Bill, is how far it will affect the fundamental definition of women in British society as dependents and mothers. Women cannot claim sickness or unemployment benefits for dependents; they retire earlier than men; and their husbands have to fill in their tax forms. Even if employers and local authorities extend child-care facilities, women still have to interrupt their careers, with subsequent job handicaps, far more than men. Other legislation to help women is in prospect. The Government's pension proposals will give women better rights in occupational and state pension schemes. The Employment Protection Bill will give six weeks' paid maternity leave and the right of reinstatement after absence. Equal pay will be fully in force at the end of this year.

But no politician has yet proposed that men should sacrifice the continuity and rewards of their careers to share in children's upbringing. Apart from encouraging a slow shift of obsolete attitudes, the practical impact of the Bill for some women may be merely an incentive to work even harder.

The Times, 5 May 1975.

1.25 Unlawful discrimination

The area most likely to throw up legitimate, demonstrable cases on December 29 [when the Sex Discrimination Act became law] is that of employment (though the Equal Pay Act rather than the Sex Discrimination Act will deal with any arrangement over money included in a

contract). The paradox here is that while cases of discrimination will possibly be easier to prove over promotion they are more likely to be reported over dismissal and redundancy. A woman in a job who is passed over for promotion may wait and hope for a more sympathetic manager, rather than jeopardize her chances with the firm.

But the following women seem to have cases that could be taken to court. The job of supervisor over a group of women assembling valves became vacant in a large factory. A number of men applied. So did a woman, from the same section, with appropriate supervisory experience from a feeder factory. The management favoured the woman's application. However the union opposed her nomination, and won the day.

In another firm, a key senior post of group personnel manager was created during reorganization of the company. A woman with 15 years' senior personnel manager experience applied. So did a couple of less qualified men. The woman's application was vetoed by a director – on the ground that it would be wrong to have a woman in a senior position talking to factories about their staff.

Both these women have strong cases. The reasons for not promoting them – that men need the money and the job more than women, who are probably married and supported anyway – will no longer be acceptable in the new year. They are the same reasons that traditionally get mentioned in redundancy cases, especially at times of economic cut back, as in the following instance.

An electronics firm was forced to make one clerical worker redundant. The choice was between an equally qualified and experienced man and woman. Both worked full time; both were married. The man had no children. The woman was paying for her children's education and supporting her son through college on her salary. Eventually she was dismissed...

Housing, facilities and services all come under the Act, thereby making it illegal for a television rental firm to refuse to allow a married woman to rent a television unless her husband signs the form...

The Times, 3 December 1975.

1.26 Nine million women workers get a new deal

On Monday, December 29, two complex, linked pieces of legislation come into force whose effect will be to revolutionise the relationship between Britain's nine million or so women workers, the men they work with and the people they work for.

These are the Equal Pay Act 1970 and the Sex Discrimination Act. They may find not only employers, but some male workers, trade unionists and even some civil servants unprepared to comply.

Both Acts, and particularly the former, are hard to understand. Once grasped, however, the Acts become legitimate game for circumvention – like avoidance of income tax liability – by employers who either wish to keep down labour costs or who object to women holding responsible jobs...

The penalties for evasion are already clear. A case that goes against an employer at a tribunal could involve him or her in stumping up back pay or other compensation for up to two years from December 29 next.

The Equal Pay Act is neither solely about pay and only arguably about equality. Contrary to a general impression, it is also just as much about men as about women.

It says that a woman is entitled to equal treatment to a man where the work she is doing is the same as or broadly similar to that of a man, or where different, has been given an equal value by a job evaluation exercise. A man has the same rights where the opposite situation prevails.

Secondly, discrimination will be removed from collective agreements, employers' pay structures and statutory wages orders containing provisions relating to men only or women only.

The Times, 1 December 1975.

1.27 Women's lib march on No 10

Carrying powerful torches specially imported from Denmark that they later found difficult to put out, three hundred women supporters of Mr William Hamilton's Anti-Discrimination Bill marched to the House of Commons last evening.

They found that their only audience comprised workmen building the car park. MPs had gone home several hours before. So the women continued their torchlight march to Downing Street. There, three were allowed to take a letter past the police barricade to No 10.

All the way they had chanted 'Equality now' and 'We want the Bill' and had been escorted by policemen who obviously felt that it was no time to impede women in an angry mood.

The reason for the demonstration was the earlier debate in the House of Commons when Mr William Hamilton (Lab, Fife, West) failed for the second year to get a second reading for his Anti-Discrimination Bill. This

Women's rights

would have set up a board to hear complaints about discrimination on the ground of sex . . .

'The greatest area of pollution in this country is the discrimination against women from the nappy to the coffin', Mr Hamilton said.

The Times, 3 February 1973.

1.28 Taxing times for married women

I recently received a missive from the taxman. If you are a married woman, it said, please reply as if you were your husband. I asked the Inland Revenue for enlightenment. 'Well', explained an embarrassed official, anticipating feminist wrath, 'husbands are still legally responsible for their wives' tax affairs. Two or three years ago we would have asked you to give him the form to fill in. Now we let you answer questions on his behalf. That's progress'. I like the tale I heard recently about the widow who received the same Inland Revenue form. She replied: 'I am dead'.

The Times, 6 June 1983.

Notes

- 1 See Chapter 2, 'Marriage'.
- 2 See Chapter 5, 'Politics'.
- 3 Similar to Inns of Courts, a society of lawyers practising civil and canon law.