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UNITED STATES DEPARTMENT OF LABOR

FRANCES PERKINS, Secretary

WOMEN'S BUREAU

MARY ANDERSON, Director



U.S. Women's Bureau.
The Legal Status of Women in the
United States of America

January 1, 1938

REPORT FOR
MARYLAND

*An advance printing of individual State material, constituting
part of a compilation now being prepared to show the present
legal status of women in the United States of America*



BULLETIN OF THE WOMEN'S BUREAU, No. 157-19

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THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

In response to urgent requests for such information, a report as to the legal status of women in the United States of America is being prepared by the Women's Bureau, the official agency in this country having to do with the conservation and advancement of the welfare of women.

The report is based on an original search of, and compilation from, the Constitutions, official statutes, and related decisions of courts of last resort of the Federal Government and the several States, as well as pertinent law texts of recognized authority.

This pamphlet presents a digest of the material compiled for a single State, which later will be incorporated in the complete report.

A copy of a preliminary summary of the incomplete report for the United States was sent by the Women's Bureau, at the request of the Secretary of Labor, to the Secretary of State for transmission to the Secretary-General of the League of Nations. It was printed as an official League of Nations document, September 29, 1937 (League of Nations, Official No. A. 14 (e) 1937. V). A mimeographed copy of this preliminary summary can be obtained from the Women's Bureau.

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LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
WOMEN'S BUREAU,
Washington, May 10, 1938.

MADAM: I have the honor to transmit to you a report on the legal status of women in Maryland. This is a section of a full report, now in progress, to include all the States, a type of information for which the Women's Bureau has had repeated requests. A preliminary report, including complete material for some States, partial information for others, has been sent to Geneva by the Secretary of State in response to a request from the Secretary-General of the League of Nations.

The section for each State represents a thorough search of statutes and decisions of appellate courts construing statutes or establishing judicial policy.

These studies are the work of Sara L. Buchanan, of the Women's Bureau research staff and member of the bar of Mississippi and the District of Columbia, under the general direction of Mary Elizabeth Pidgeon, chief of the research division. Miss Buchanan was assisted by Mary Loretta Sullivan.

After completion of the report for each State, the material was sent for approval or suggestions by competent persons within the State.

Respectfully submitted.

MARY ANDERSON, *Director.*

HON. FRANCES PERKINS,
Secretary of Labor.

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THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

INTRODUCTION

Any conclusion bearing on woman's status under the laws of the United States of America must take into account the common law, on which the fabric of the Nation's jurisprudence is woven.

The common-law rules of property sprang from various causes, notably tradition, military or economic exigency, natural male dominance, and the social status of women. Shifts in these have effected an almost complete overturn in laws governing the property owned by a woman prior to her marriage and that coming into her individual ownership after her marriage, by gift, inheritance, will, or accumulation from her premarital possessions.

In general, it has been the rule that where specific statutes abrogating them have not been enacted, common-law principles apply. In the century just past, much ground has been covered in superseding by specific laws the old common-law injustices to women. The largest remaining area to be reformed to the present-day trend lies in the matter of ownership and control of property acquired by the efforts of husband and wife after marriage.

The material considered centers largely around the woman in the marriage relation, since at the present time the legal status of the unmarried woman is practically identical with that of the unmarried man, with the exception of discriminations occurring in some States in certain political privileges (such as jury service, election or appointment to public office), or variance between men and women in the statutory age of majority or age of consent to marriage, or rights of property exemptions from seizure for debt.

TAWCETT COLLECTION

MARYLAND

SOURCES

Constitution of Maryland.
Maryland Code, Bagby's, 1924.
1935 Cumulative Supplement, Flack's.
Session Laws, 1937.
Maryland Reports.
Atlantic Reporter.

EXPLANATORY NOTE

References to the State Constitution are indicated by parenthetical insertions of section numbers following the abbreviation Const., as (Const., art. 3, sec. 43), placed after the related subject matter.

Code section references are likewise in parentheses, thus (art. 45, sec. 5); Supplement to Code (1935 Supp., art. 45, sec. 1).

Session laws are referred to by year of enactment and page number, as (1937, p. 271).

Case citations, definitely construing statutes or declaring judicial policy in the absence of express statutory provision, are indicated by numerical footnote references, and appear immediately after the related paragraphs. Cases showing historical development of a statute or policy are followed by the abbreviation (Hist.).

Subject headings are preceded by numbers, which remain constant for their respective topics through the entire State series. Cross references among topics employ these numbers for brevity, as "See Number 6," which refers to the subject heading "Separate Earnings of Married Woman—Ownership and Control."

MARYLAND

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.

The common-law rule of 21 years governs, unless special exceptions are made by statute.¹ See Number 2.

¹ *Greenwood v. Greenwood* (1868), 28 Md. 369, 386.

2. Contractual Powers of Minors.

A married woman, at whatever age she may be, may relinquish her dower in any real estate by the joint deed of herself and husband or by her separate deed, or by a power of attorney for the purpose (art. 45, sec. 12). But such transfer of the dower right by a minor is subject to confirmation by an equity court of the State (art. 16, sec. 44). Any unmarried woman between the ages of 18 and 21 years may make a deed of trust against any of her property subject to the approval of a court of equity (art. 21, sec. 1); she may transfer and convey as if adult her interest in the title to the fee and reversion in the land out of which any redeemable ground rent issues, when the owner of the leasehold interest has given the proper notice to redeem (1937, p. 271).

All minors are liable on their contracts for necessaries, to the extent of a reasonable price. And necessaries in this connection are those goods suitable to the minor's condition in life and to his actual requirements at the time they are delivered to him (art. 83, sec. 23).

Upon her marriage or attaining the age of 18 years, a female is deemed capable of receiving a bequest of personal property or money intended to be paid to her on her maturity (art. 93, sec. 147).

On a female ward's attaining the age of 18 years or on her marriage, her guardian must present a final account to the orphan's court, and upon the court's order deliver to the ward all her property in his hands (art. 93, sec. 199).

Males of the full age of 21 years, and females of the full age of 18 years, if of sound mind, may make a valid will disposing of any interest or estate in lands (art. 93, sec. 331).

When 18 years of age a minor may act as executor under a will (art. 93, secs. 53, 58, 59).

3. Property Exemptions from Seizure for Debt—Respective Rights of Men and Women.

Personal property.

There is allowed to every defendant who is in good faith a resident of the State the privilege of exemption from execution of "one hundred dollars in property, whether the same consists of money, land or goods," as well as all proceeds of insurance, benefit or relief from sickness, accident or death (art. 83, secs. 8, 13).

The sum of \$100 of the wages or hire of any laborer or employee due from an employer or corporation is always exempt from attachment by any process whatever. This exemption privilege may not be waived in any case (1935 Supp., art. 9, sec. 33).

All wearing apparel, mechanical textbooks, books of professional men, tools of mechanics, and all tools or other mechanical instruments or appliances moved or worked by hand or foot necessary to the practice of any trade or profession and used in the practice of it, are made exempt from execution, besides the \$100 property exemption allowed by section 8 of this article (art. 83, sec. 11). As to exempt insurance, see Number 15.

Homestead.

There is no provision for a homestead as such. The execution debtor may select real or personal property to the value of \$100, after appraisal (art. 83, sec. 9).

4. Property of Married Woman Owned at Marriage—Ownership After Marriage.

Married women hold all their property of every description for their separate use, as fully as if unmarried (art. 45, sec. 4). Property belonging to a wife at marriage is not liable for her husband's debts (1935 Supp., art. 45, sec. 1).

5. Contractual Powers of Married Women.

Married women are empowered to engage in any business; to contract whether engaged in business or not; to sue upon their contracts; to sue for the recovery, security, or protection of their property, and for torts committed against them, as fully as if they were unmarried; contracts may also be made with them, and they may be sued separately upon their contracts, or for wrongs independent of contract whether such contracts were made or such wrongs were committed before or after marriage, as fully as if they were unmarried. Upon judgments recovered against them, execution may issue as if they were unmarried (art. 45, sec. 5). A married woman may contract with her husband and may form a copartnership with her husband or others, as if she were single; and upon all such contracts, whether partnership or otherwise, she may sue and be sued as fully as if she were unmarried (art. 45, sec. 20).¹

Married women shall hold all their property of every description for their separate use, as fully as if they were unmarried, and shall have all the power to dispose of it by deed, mortgage, lease, will, or any other instruments that husbands have to dispose of their property, and no more (art. 45, sec. 4).

When either spouse has been legally declared lunatic or insane and the finding is still in force, or when either spouse is absent or unheard of for 7 years, the other spouse may grant and convey by separate deed, whether the deed be absolute or a lease or mortgage, as fully as if he or she were unmarried, any real estate which he or she may have acquired since such finding or since the beginning of such absence (art. 45, sec. 13).²

No assignment of wages or salary by either husband or wife is valid unless such assignment is executed and acknowledged by both spouses, as directed by the statute (art. 8, sec. 11). This provision

appears also in the Petty Loans article, but an exception is made there if the spouses have been living separate and apart for 5 months or more prior to such assignment (art. 58A, sec. 17).

A married woman may as landlady and proprietress contract with anyone entering her house for board or lodging or both, and is entitled to full legal remedies provided by statute as if she were unmarried, and she has and enjoys all the powers, rights, and remedies with respect to the renting, keeping, and conducting of such boarding or lodging house as if she were unmarried, and it is not necessary for her husband to join in any contract with reference to such business (art. 71, sec. 9).

No license to trade or to sell spirituous or fermented liquors can be issued to a married woman or to any person under 21 years of age, except under special order of the court, such order to be granted only upon recommendation of 10 or more respectable freeholders, residents of the district covered by the license when issued. When such license is issued, the married woman or person under 21 years of age becomes fully under the law and responsible for all contracts made in the prosecution of such business under the license, and subject to prosecution for violation under the license law of the State (1935 Supp., art. 56, sec. 43).

The statute declaring the rights and liabilities of insolvent debtors is made specifically applicable to married women in business, as if they were single (art. 47, sec. 35).

There is also a specific provision for reaching by execution under judgment for debt the property of married women, as if they were unmarried (art. 45, sec. 17).

Married women have equal right to be appointed as executors or administrators, without discrimination as to the amount of bond required of them (1935 Supp., art. 93, sec. 23) (art. 93, sec. 59).

¹ *Cochrane v. Cochrane* (1921), 139 Md. 530, 534; 115 Atl. 811, 812.

² *Kernan v. Carter* (1918), 132 Md. 577, 583; 104 Atl. 530, 531.

6. Separate Earnings of Married Woman—Ownership and Control.

The separate property of the wife, including that acquired by her own skill, labor, or personal exertions, is to be protected from the debts of the husband, and not in any way be liable for the payment of them (1935 Supp., art. 45, sec. 1). Married women may engage in any business, may contract whether engaged in business or not, and may sue upon their contracts (art. 45, sec. 5). Applying this provision to a case in which the services of the wife were rendered in personal care of a relative in her home, for a promised consideration which it was expressly proposed and mutually understood she should separately receive, the court held that the wife had the right to maintain suit in her own name to recover the consideration promised.¹ See Number 5.

¹ *Neudecker v. Leister* (1918), 132 Md. 571, 576; 104 Atl. 47, 49.

7. Liability of Married Woman for Family Necessaries.

A married woman is liable for the purchase price of necessaries, if she contracts for them in her own name and upon her own responsibility (art. 45, sec. 5).¹

A married woman's estate, if solvent, upon her death is liable for payment of her funeral expenses up to \$300, or a larger amount if allowed by special court order, but after such payment her executor or administrator is charged with the duty to collect the amount expended from the wife's surviving husband. The purpose of the law is to make the wife's estate, if solvent, a primary source of payment, and not to relieve the surviving husband of his liability for this item of expense (1935 Supp., art. 93, sec. 5A).

¹ *Farver v. Pickett* (1932), 162 Md. 10, 12; 158 Atl. 29.

8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.

See Numbers 5 and 6.

9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.

The separate property of a married woman is declared to be free from liability for the debts of her husband, and is to be protected from seizure for them (Const., art. 3, sec. 43) (1935 Supp., art. 45, sec. 1). But her estate, if solvent, is made primarily liable for her funeral expenses, up to the limits set by statute, with right of recovery from her husband vested in her executor or administrator (1935 Supp., art. 93, sec. 5A). The wife's sole conveyance of her lands does not bar her husband's right of dower in such lands (art. 45, sec. 7). Neither spouse can make a valid assignment of wages or salary without the written assent of the other (art. 8, sec. 11; art. 58A, sec. 17).

Any deposit in a bank, savings institution, or trust company, by and in the name of any minor or female being or afterward becoming a married woman, is to be held for the exclusive right and benefit of such minor or female, free from the control or lien of all persons, except creditors, and is to be paid with any accrued interest to the person in whose name the deposit was made (art. 11, sec. 74).

Estates by the entirety.

The estate by entirety is still recognized in Maryland as it existed at the common law, where property is conveyed or given to two persons who are husband and wife, and since in the contemplation of the common law they are but one person, they take, and can only take, by the entirety. The right of survivorship, which is one of its chief incidents, cannot be destroyed except by the joint act of the two, and upon the death of either the other succeeds to the entire property or funds.¹ While the nature of such estates has not been changed by the married women's statutes in article 45, the former rights of the husband to all the rents, profits, and control of such property have been extinguished by the statute, so that the property rights of the wife in such estates are protected, and her interests are coextensive with those of her husband, both have equal capacity to contract and both are essential parties to an effective transfer of the title.^{2 3 4}

See Number 4.

¹ *Brewer v. Bowersox* (1901), 92 Md. 567, 572, 573; 48 Atl. 1060, 1062, 1063.

² *Abrams v. Eckenrode* (1920), 136 Md. 244, 249; 110 Atl. 468, 470.

³ *Masterman v. Masterman* (1916), 129 Md. 167, 174, 175, 176, 177; 98 Atl. 537, 540, 541. (Hist.)

⁴ *Tizer v. Tizer* (1932), 162 Md. 489, 496; 160 Atl. 163, 165.

10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.

In the absence of a statute governing the ownership of property acquired during marriage by the cooperative efforts of husband and wife, the ownership and control of such property is in the husband, as at common law.

The wife has a beneficial right in the earnings of the husband, since she is entitled to support by him.¹

¹ *McCubbin v. Patterson* (1860), 16 Md. 179, 184.

11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.

A wife may sue in damages for the alienation of her husband's affections.¹ She cannot recover damages on account of personal injury to her husband whereby she sustains loss of support and of consortium and is compelled to care for him while sick.²

For the recovery, security, or protection of her property, she may sue third persons or her husband either in equity or law courts as if she were unmarried.³

A married woman may sue for torts committed against her as if she were unmarried (art. 45, sec. 5). Any woman, single or married, may sue in her own name in an action of slander, when her character or reputation for chastity has been traduced or defamed by any person (art. 88, sec. 2). If she is unmarried, and under 18 years of age, she sues by her next friend (art. 88, sec. 3).

¹ *Miller v. Miller* (1933), 165 Md. 425, 433.

² *Emerson v. Taylor* (1918), 133 Md. 192, 196.

³ *Cochrane v. Cochrane* (1921), 139 Md. 530, 534.

12. Action to Recover Damages for Willful or Negligent Injuries to the Person or Property of One Spouse by the Other—Respective Rights of Husband and Wife.

The provisions of the Married Women's Acts do not confer upon spouses the right to sue each other in personal causes of action.¹

¹ *Furstenburg v. Furstenburg* (1927), 152 Md. 247, 252.

13. Competency of Spouses to Testify For or Against Each Other.

The husband or wife of a party litigant in any suit, action, or other proceeding is competent to give evidence in the same manner as other witnesses, and may be compelled to testify in civil cases¹ (art. 35, sec. 1).

In all criminal proceedings the husband or wife of the accused is competent to testify; but in neither civil nor criminal suits will a spouse be competent to disclose any confidential communication between them during the marriage (art. 35, sec. 4).

¹ *Turpin v. State* (1880), 55 Md. 462, 478.

14. Disposition of Separate Property by Will—Extent of Married Woman's Right.

Neither spouse may by will defeat the dower interest in lands or the statutory interest of the surviving spouse in personal property owned

by the testator.¹ Otherwise the married woman is free to dispose of her separate property by will (art. 93, sec. 331).^{2 3}

¹ *Jaworski v. Wisniewski* (1925), 149 Md. 109, 115; 131 Atl. 40, 42.
² *Schull v. Murray* (1870), 32 Md. 9, 16.
³ *Buchanan v. Turner* (1866), 26 Md. 1, 5.

15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.

REAL PROPERTY

Both spouses have a dower interest in the lands owned by the other at any time during the marriage whether held by the decedent at date of death or not, such dower interest consisting of the life use of one-third of the lands unless barred by action of the surviving spouse (art. 45, secs. 6, 7).

Decedent intestate.

When an intestate decedent leaves an estate in lands owned outright at the date of death, the surviving spouse inherits a like proportion in the real estate as he or she would receive in the personal estate of the deceased. This right is absolute, and is effective against the dower right, unless within 6 months after the death of the spouse, the surviving husband or wife files in the proper court a signed written election to take the dower to which he or she is entitled by virtue of the marriage. If the dower is chosen, then the living spouse is considered to have renounced any other right in the decedent's Maryland real estate in favor of the other heirs, to whom it then passes (art. 46, secs. 1, 2, 4).

Decedent testate.

Such a share by inheritance in real property is provided by statute in those cases where the deceased spouse leaves a will, but is subject to be barred by provisions in favor of the living spouse made by the will, unless the survivor makes an election in writing within 6 months after the first grant of letters testamentary upon the decedent's will, renouncing the provisions of the will and accepting in lieu thereof the statutory share (art. 46, sec. 3; art. 93, sec. 311).¹

Every devise of land or any estate therein or bequest of personal estate to the surviving spouse by a decedent's will, is considered as intended by the decedent to be a bar to the other's dower interest in lands or share of the personal estate, respectively, unless the will declares otherwise. Such a bar becomes effective unless within 6 months after the first grant of letters testamentary on the will, the living spouse files in the proper court a written renunciation of its provisions for him or her.² If descendants of the decedent survive, and the election be of dower in lands and the legal share of the personal estate, the living spouse takes the dower estate in lands and one-third of the surplus personal estate. If no descendants survive, the electing spouse takes the dower in lands and one-half of the surplus personal estate. But if the election be of the legal share of both real and personal estate, the surviving spouse takes one-third of the lands outright as an heir, and one-third of the surplus personal estate, if descendants survive; but if no descendants survive, the living spouse takes outright as an heir one-half the lands and one-half of the surplus personal estate (art. 93, secs. 310, 311, 326).

If the will devise a part of both real and personal estate, the surviving spouse must renounce the whole, but if the will devise only a part of the real estate or of the personal estate, the bar arises only as to that estate, unless the will expressly makes such provision in lieu of the legal share in one or both estates, when renunciation accordingly must be made (art. 93, secs. 312, 313, 326).

Dower interest in lands may be barred by jointure or other settlement before marriage, but the surviving spouse may accept whatever is devised him or her by decedent's will (art. 93, secs. 315, 326).

If the will directs the sale of the decedent's lands under a power of sale, and the living spouse gives written consent to the sale of the entire real estate, the court shall order the sale free from any claim of dower and allow instead, from the net proceeds of the sale, a just and equitable share, not exceeding one-seventh nor less than one-tenth, according to the age, health, and condition of the living spouse. Such amount bars all claim of dower in the lands (art. 93, secs. 324, 326).

PERSONAL PROPERTY

Distribution of the surplus personal property of an intestate spouse is made by the following statutory rules, after payment of debts (art. 93, sec. 124):

1. If no child, parent, grandchild, brother or sister, or the child of a brother or sister of the deceased be living, then the surviving spouse takes the entire surplus (art. 93, sec. 125).

2. If there be a child, or children or descendant or descendants from a child, the living spouse takes one-third only of the surplus (art. 93, sec. 126).

3. If no child or descendant of the intestate survive, but a father or mother does survive, the living spouse takes one-half the surplus. But if no child or descendant of the deceased, and no parent, survive, but decedent leaves a brother or sister or "child of descendant" of a brother or sister, the surviving spouse takes \$2,000 or its equivalent in property at its appraised value, together with one-half of the residue (1935 Supp., art. 93, sec. 127).

Upon the death of a decedent, and after appraisal of the estate by commissioners, if it is found that the estate cannot be divided in kind without loss or injury, the eldest son, child, or person entitled, if of age, has the right to elect to take the whole estate and pay to the others their portions of the value in money. If the eldest child or person entitled to make this election refuses to do so, then the next child or person entitled, if of age, shall have the same election, and so on to the youngest child or person entitled (art. 46, secs. 18, 19, 20).

In case the eldest male shall not be of age to make his election, it shall be lawful for the eldest female, if of the age of 21 years, to elect to take the lands at the valuation of the commissioners, notwithstanding the existence of any male minor; and any husband may elect to take in right of his wife (art. 46, sec. 24).^{3 4}

Any married woman by herself and in her name or in the name of any third person with his assent as her trustee may insure or cause to be insured for her sole use the life of her husband for any definite period or for the term of his natural life; and any husband

may cause his own life to be insured for the sole use of his wife and may also assign any policy of insurance upon his own life to his wife for her sole use. If the wife survives the husband, the proceeds of such insurance are for the wife's own use, free from the claims of the representatives of her husband or any of his creditors (art. 45, sec. 8).⁵

Proceeds of maturing policies on the life of any person, which policies were taken out for, or assigned to, the wife, children, or dependent relative of insured are to be held by such beneficiary free and clear from all claims of creditors of the insured person (art. 45, sec. 9).

If the wife die before her husband, the amount of such insurance may be payable after her death to the children or descendants for their use, or to the guardians if children under age; and if there are no children or descendants of the wife, then to her legal representatives (art. 45, sec. 10). It is to be noted that the policy itself or the by-laws of the insurance company may make other provisions. If so, this section does not apply.⁶

¹ *Jaworski v. Wisniewski* (1925), 149 Md. 109, 115; 131 Atl. 40, 43.
² *Yungerman v. Yungerman* (1934), 165 Md. 609, 611, 612; 170 Atl. 170, 171.
³ *Catlin v. Catlin* (1883), 60 Md. 573, 577. (Hist.)
⁴ *Stevens v. Richardson* (1824), 6 H. & J. 156, 160.
⁵ *Elliott v. Bryan* (1885), 64 Md. 368, 370; 1 Atl. 614, 615. (Hist.)
⁶ *Pratt v. Hill* (1914), 124 Md. 252, 255; 92 Atl. 543, 544.

16. Provision for the Surviving Spouse During Administration of the Estate.

When a decedent leaves a widow, or child or grandchild, his wearing apparel is to be exempt from appraisal, and belongs to the child or children of the decedent, and if no child or children survive, to the grandchildren; and if no child or grandchild, then to the widow of the decedent. The term wearing apparel does not include watches or jewelry of any description (art. 93, secs. 228, 230).

At the death of any decedent, the provisions which have been laid up for the consumption of his family, on his home or mansion-house farm, may not be sold or included in the inventory of his estate, but remain for the use of the family (art. 93, sec. 229).

The surviving spouse is entitled to an allowance from the personal estate, after payment of funeral expenses, in cash or household goods as he or she prefers, in the sum of \$150 if there are infant children of the marriage living, or the sum of \$75 or its equivalent in household goods, if no infant child or children are living (art. 93, secs. 317, 318, 326). This allowance is a preferred claim, subordinate only to funeral expenses and administration charges (1935 Supp., art. 93, sec. 5).

No homestead provision appears in the statutes.

17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

See Number 15.

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.

Men at 21 years and women at 18 are free to marry without parental consent. Under those ages, assent of parents or guardian in

person or in writing duly witnessed, is necessary for license to issue (art. 62, sec. 7). No minimum ages are set by statute, and accordingly the common law governs,¹ that is, 14 years for males and 12 years for females.

¹ *Marburg v. Cole* (1878), 49 Md. 402, 411.

19. Validity of Common-Law Marriage.

A valid common-law marriage is not possible in the State.¹ Under the Maryland law both religious ceremony and civil contract are essential to the validity of a marriage (1935 Supp., art. 62, sec. 4).^{2 3}

¹ *Mitchell v. Frederick* (1934), 166 Md. 42, 46; 170 Atl. 733, 735.
² *Feehley v. Feehley* (1916), 129 Md. 565, 568; 99 Atl. 663, 664.
³ *Denison v. Denison* (1872), 35 Md. 361, 379, 380. (Hist.)

20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.

No health certificate is required. No license to marry may be delivered by the clerk until after the expiration of 48 hours from the time application for the license is made, unless in exceptional cases authorized judges may order otherwise, upon sufficient cause shown (1937, p. 136).

21. Interstate Cooperation in Marriage Law Enforcement.

If a marriage performed in another State is valid under the laws of that State, it will be held valid in this jurisdiction if not contravening the declared policy of Maryland positive law.¹

¹ *Jackson v. Jackson* (1895), 82 Md. 17; 33 Atl. 317.

22. Grounds for Marriage Annulment—Respective Availability to Man or Woman.

Annulment of marriage may be granted because of prohibited degrees of kinship, or undissolved prior marriage, or other grounds which the court may hold to have rendered the marriage void (art. 62, secs. 1, 2, 14).

23. Grounds for Divorce—Respective Availability to Spouses.

An absolute divorce may be granted the complaining party for any one of the following grounds: Impotency at the time of marriage; adultery; desertion for 3 years, shown to be continuous, deliberate, and final; any cause which by State law renders a marriage null and void from its beginning; separation without any cohabitation for 5 consecutive years prior to suit, when there is no reasonable expectation of reconciliation.

The husband may be granted a divorce when, prior to the marriage, the wife had been guilty of illicit carnal intercourse with another man, if the husband had no knowledge of the fact at the time of marriage and her guilt is proved to the satisfaction of the court (1937, p. 791).

A limited divorce, that is, a legal separation, may be granted for any one of these grounds: Cruelty of treatment; excessively vicious conduct; abandonment and desertion. Whether an absolute or limited divorce is granted rests in the discretion of the court (art. 16, sec. 39).

III.—PARENTS AND CHILDREN

24. Services and Earnings of Minor Children—Parents' Respective Rights.

The parents are declared joint natural guardians, with equal powers and duties, if living together. If one parent be dead, or has abandoned the child, or has been deprived of its custody by court decree, the other is entitled to its services and earnings (1935 Supp., art. 72A, secs. 1, 2).

The mother of an illegitimate child may sue for her minor child's loss of wages or services when such loss is caused by the seduction of the child or by an injury wrongfully or negligently inflicted upon it (1937, p. 39).

25. Guardianship of Minor Children—Parents' Respective Rights.

The father and mother are the joint natural guardians of their minor child, and are equally charged with its care, nurture, welfare, and education. They have equal powers and duties, and neither parent has any right superior to the right of the other concerning the child's custody. If either the father or mother dies or abandons the family, or is incapable of acting, the guardianship devolves upon the other parent. If the parents are separated, the court may award the child's guardianship to either of them (1935 Supp., art. 72A, sec. 1).

26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.

The right to appoint by will a suitable guardian of the person or property, or both, of any minor child is vested by statute in "the sole surviving parent" of such child. However, it is specially provided that any parent may by a duly executed will appoint a guardian as to the property which his or her child may inherit from him or her (1935 Supp., art. 72A, sec. 4).

27. Inheritance from an Intestate Child—Parents' Respective Rights.

When both parents, but no children or descendants of the decedent, survive, the distributable estate is divided equally between the parents. If either parent be dead, and no descendants of the decedent survive, the living parent takes the entire portion distributable (art. 93, secs. 131, 132).

28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.

When the child's paternity has been determined as provided by law, the adjudged father is held under bond to comply with the payment of the funds which in the court's judgment will be required for the maintenance and support of the child until it is 14 years of age, and the expenses, in whole or in part, incident to its birth (1935 Supp., art. 12, sec. 5).¹

¹ *Kelly v. State* (1926), 151 Md. 87, 92, 93; 133 Atl. 899, 901.

29. Inheritance from Child Born Out of Wedlock—Mother's Right.

When a child born out of wedlock dies, leaving no descendants, or brothers or sisters or descendants of them, the mother inherits both real and personal estate from him or her (art. 46, sec. 7). The mother is a "parent" for the purpose of the inheritance laws of the State, and takes as if the child had been born in wedlock.¹ See Number 27.

¹ *Reese v. Starnner* (1907), 106 Md. 50, 53; 66 Atl. 443, 444.

B.—POLITICAL RIGHTS

30. Domicile of Married Women.

By rule of common law, governing in the absence of statute, the domicile of a married woman follows that of her husband.

31. Public Office—Eligibility of Women.

All words or phrases used in creating public offices and positions under the Constitution and State laws, denoting masculine gender, are to be construed to include the feminine gender unless the contrary intention is specifically expressed (Const. art. 15, sec. 10).

Women are eligible to hold all public offices and positions to the same extent as men, subject to all provisions of law, general or local, containing restrictions or qualifications for holding such offices and positions (art. 69, sec. 13).

32. Jury Service—Eligibility of Women.

Women are not eligible for jury service (1935 Supp., art. 51, sec. 6).

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32. Inheritance from Child Born Out of Wedlock—Mother's Right

When a child born out of wedlock dies, leaving no descendants or brothers or sisters or descendants of them, the mother inherits his real and personal estate from him in her last will and testament. The mother is entitled for the purpose of the inheritance laws of the state and other laws of the child had been born in wedlock. (See Chapter 32, Section 1.)

B—POLITICAL RIGHTS

30. Domestic of Married Women

By law of common law, a woman in the absence of statute, the domestic of a married woman follows that of her husband.

31. Public Office—Eligibility of Women

All rights and duties and in holding public office and position held by men are now held by women, whether masculine gender and sex, provided in the constitution of the state and other laws of the state.

When a woman holds all public office and position to the same extent as men, subject to all provisions of law, except as hereinafter provided, she shall be eligible for holding such office and position. (See Chapter 31, Section 1.)

33. Jury Service—Eligibility of Women

Women are not eligible for jury service. (See Chapter 33, Section 1.)

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