

L13.3:157-28

STATE COLLEGE LIBRARY

So hit.

UNITED STATES DEPARTMENT OF LABOR

MAURICE J. TOBIN, Secretary

WOMEN'S BUREAU

FRIEDA S. MILLER, Director



The Legal Status of Women in the United States of America

January 1, 1948

REPORT FOR

NEW HAMPSHIRE

Individual State material, constituting part of a compilation to show the present legal status of women in the United States of America



BULLETIN OF THE WOMEN'S BUREAU, No. 157-28 (Revised)

UNITED STATES GOVERNMENT PRINTING OFFICE WASHINGTON : 1949

For sale by the Superintendent of Documents, U. S. Government Printing Office, Washington 25, D. C. Price 10 cents

UNITED STATES DEPARTMENT OF LABOR

WOMEN'S BUREAU
MARGARET J. THOMAS, Director
WOMEN'S BUREAU
FEDERAL BUREAU OF INVESTIGATION

The Legal Status of Women in the United States of America

January, 1938

THE LEGAL STATUS OF WOMEN IN THE UNITED STATES OF AMERICA

In response to continuing domestic and international needs, the Women's Bureau has prepared a revised edition of its 1938 report on the legal status of women in the United States of America.

The revised report is based on an examination of the Constitutions, official statutes, and significant 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 has been incorporated in the complete report.

ii



Department of Labor, Women's Bureau, No. 137-28 (Revised)

UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON: 1938

The sale of the Government of Documents, U. S. Government Printing Office, Washington 25, D. C.
Price 10 cents

LETTER OF TRANSMITTAL

UNITED STATES DEPARTMENT OF LABOR,
WOMEN'S BUREAU,
Washington, June 2, 1949.

SIR: I have the honor to transmit to you a revised report on the legal status of women in New Hampshire. This is one of 54 separate reports constituting a survey of the laws of the 48 States, the District of Columbia, the territories of Alaska, Hawaii, and Puerto Rico, and the United States possessions, the Canal Zone and Virgin Islands.

The original report for each jurisdiction represents a thorough search of statutes and decisions of appellate courts construing its statutes or establishing its judicial policy. Revision covers important changes by legislative action.

The study was made by Sara L. Buchanan, Attorney, aided by Mary L. Sullivan, Associate Economist, and Elizabeth Batson, Editorial Assistant, all of the Bureau staff.

Respectfully submitted.

FRIEDA S. MILLER, *Director.*

HON. MAURICE J. TOBIN,
Secretary of Labor.

III

LETTER OF TRANSMITTAL

United States Department of Labor
Women's Bureau
Washington, June 2, 1918

Sir: I have the honor to transmit to you a typed report on the legal status of women in New Hampshire. This is one of 44 separate reports constituting a survey of the laws of the 48 States, the District of Columbia, the territories of Alaska, Hawaii, and Puerto Rico, and the United States possessions, the Canal Zone and Virgin Islands. The original report for each jurisdiction represents a thorough search of statutes and decisions of appellate courts regarding its status on existing its judicial policy. Revision covers important changes by legislative action.

The study was made by Sara L. Richardson, Attorney, aided by Mary L. Sullivan, Associate Researcher, and Elizabeth Wilson, Editorial Assistant, all of the Bureau staff.

Respectfully submitted,

Thomas S. Minner, Director

Hon. Maurice J. Tobin,
Secretary of Labor.

CONTENTS

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.
2. Contractual Powers of Minors.
3. Property Exemptions from Seizure for Debt—Respective Rights of Men and Women.
4. Property of Married Woman Owned at Marriage—Ownership After Marriage.
5. Contractual Powers of Married Women.
6. Separate Earnings of Married Woman—Ownership and Control.
7. Liability of Married Woman for Family Necessaries.
8. Formal Procedure Required for a Married Woman to Engage in a Separate Business.
9. Married Woman's Separate Property—Control During Marriage—Liability for Husband's Debts.
10. Property Acquired After Marriage Through Cooperative Efforts of Spouses—Ownership and Control.
11. Damages Recovered for Injury by Strangers to a Married Woman's Person, Property, or Character—Ownership and Control.
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.
13. Competency of Spouses to Testify For or Against Each Other.
14. Disposition of Separate Property by Will—Extent of Married Woman's Right.
15. Estate of Deceased Husband or Wife—Share of Surviving Spouse.
16. Provision for the Surviving Spouse During Administration of the Estate.
17. Disinheritance of Husband or Wife by Will of Deceased Spouse—Survivor's Alternative.

II.—MARRIAGE AND DIVORCE

18. Age of Consent to Marriage—Men and Women.
19. Validity of Common-Law Marriage.
20. Health Certificate Requisites Prior to Issuance of Marriage License—Men and Women.
21. Interstate Cooperation in Marriage Law Enforcement.
22. Grounds for Marriage Annulment—Respective Availability to Man or Woman.
23. Grounds for Divorce—Respective Availability to Spouses.

III.—PARENTS AND CHILDREN

24. Services and Earnings of Minor Children—Parents' Respective Rights.
25. Guardianship of Minor Children—Parents' Respective Rights.
26. Appointment of Testamentary Guardian for Minor Children—Parents' Respective Rights.
27. Inheritance from an Intestate Child—Parents' Respective Rights.
28. Support of Children Born Out of Wedlock—Parents' Respective Responsibility.
29. Inheritance from Child Born Out of Wedlock—Mother's Right.

B.—POLITICAL RIGHTS

30. Domicile of Married Women.
31. Public Office—Eligibility of Women.
32. Jury Service—Eligibility of Women.

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 common-law principles have not been enacted, the common law applies. In the century just past, many of the old common-law injustices to women have been removed by statute. 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 cooperative efforts of husband and wife after marriage.

The material considered centers largely around the woman in the marriage relation, since the legal status of the unmarried woman is practically identical with that of the unmarried man, with the exception of the discrimination in some States which bars women from jury duty; or of distinctions, such as variance between men and women in the statutory age of majority or age of consent to marriage.

NEW HAMPSHIRE

SOURCES

Constitution of New Hampshire.
Revised Laws of New Hampshire, 1942.
Session Laws, 1947.
New Hampshire Reports.
Atlantic Reporter.

EXPLANATORY NOTE

References to the State Constitution are indicated by parenthetical insertions of section numbers following the abbreviation Const., as (Const., pt. 2, art. 30), placed after the related subject matter.

Statute references are by chapter, section, and page, enclosed in parentheses immediately following the citation, as (ch. 412, sec. 21, p. 1713).

Session laws are referred to by year of enactment and page number, as (1947, p. 109).

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."

NEW HAMPSHIRE

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.

As there is no general statutory definition of the age of majority, the common-law provision of 21 years for both sexes applies. For the purposes of the Minimum Wage Act for Women and Minors, the law declares a minor to be a person of either sex under the age of 21 years (ch. 213, sec. 1 (IV), p. 874).

2. Contractual Powers of Minors.

A married woman may join with her husband in release of her dower, though she is not of full age; also a married man, though not of full age, may join with his wife in release of his curtesy right (ch. 340, sec. 4, p. 1483).

Conveyances of land to or by a minor are not void, but voidable, subject to ratification at his majority.^{1 2}

Contracts made by minors are not void, but voidable, generally.³ A minor is liable for the reasonable price of actual necessities supplied him (ch. 200, sec. 2 (II), p. 812).

¹ *Robbins v. Eaton* (1840), 10 N. H. 561, 563.

² *Emmons v. Murray* (1844), 16 N. H. 385.

³ *Wooldridge v. Lavoie* (1918), 79 N. H. 21; 104 Atl. 346.

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

Personal Property.

The provisions for the exemption from attachment and execution of various enumerated articles of personal property appear to be intended for all debtor residents (ch. 388, sec. 2, p. 1644) (ch. 412, sec. 21, p. 1713).

Homestead.

Every person is entitled to \$500 worth of his homestead, or of his interest in it, as a homestead right. The owner, the husband or wife of the owner, and the minor children, if any, are entitled to occupy the homestead right during the owner's lifetime. After the decease of the owner, the surviving spouse and the minor children are entitled to occupy the homestead right during the minority of the children. Subject to these provisions, the surviving wife or husband of the owner is entitled to the homestead for life. But the exemption does not hold against debts for taxes, record liens, or mortgages (ch. 260, secs. 1, 2, 3, p. 1086). See Number 16.

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

See Number 9.

5. Contractual Powers of Married Women.

A married woman has the same rights and remedies, and is subject to the same liabilities in relation to property held by her in her own right, as if she were unmarried. She may make contracts, sue and be sued in all matters in law and equity, and upon any contract made by her or for any wrong done by her, as if she were unmarried; except that she is not liable as surety or guarantor for her husband nor for any undertaking by her for him or in his behalf. But an agreement a married woman makes with a third person to enable her to obtain the means to aid her husband is not an undertaking by her for him or in his behalf, and she is liable on it.^{1 2} She may execute a mortgage releasing her right of dower and homestead (ch. 340, sec. 2, p. 1482).^{3 4 5}

A married woman appointed as guardian of a minor has the same rights and powers and is subject to the same duties and liabilities as other guardians. If a female guardian marries, her husband does not thereby become guardian; but her guardianship may then be revoked by the judge in his discretion (ch. 342, secs. 16, 17, pp. 1490, 1491).

If an executrix or administratrix marries, her husband does not thereby become executor or administrator in her right; but she may continue to exercise the trust as before (ch. 352, sec. 9, p. 1516).

¹ *White Mountain National Bank v. Noyes* (1924), 81 N. H. 285; 125 Atl. 434.

² *Parsons v. McLane* (1888), 64 N. H. 478; 13 Atl. 588.

³ *Adams v. Adams* (1921), 80 N. H. 80 (Hist.); 113 Atl. 279.

⁴ *People's Trust Co. v. Merrill* (1918), 78 N. H. 540; 102 Atl. 827.

⁵ *Seaver v. Adams* (1890), 66 N. H. 142 (Hist.); 19 Atl. 776.

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

Every woman holds to her own use, free from the interference or control of her husband, all property at any time earned by her, either before or after marriage; provided, such property or earning does not have its source in payment or pledge of the property of the husband.¹ See Number 5, as to her right to sue for her earnings.

¹ *Harris v. Webster* (1878), 58 N. H. 481. (Hist.)

7. Liability of Married Woman for Family Necessaries.

When a married woman contracts for necessaries in her own name and on her own account, she is liable for the purchase price of them (ch. 340, sec. 2, p. 1482).¹

No female is to be arrested upon a writ in an action founded on contract, nor upon any action founded upon a conditional sale of clothing by lease or otherwise (ch. 389, sec. 1, p. 1653).

¹ *Parsons v. McLane* (1888), 64 N. H. 478; 13 Atl. 588.

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

There is no requirement for a recorded inventory of property or other such formality to enable a married woman to engage in an independent business. See Number 6.

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

Every woman is entitled to hold to her own use, free from the interference or the control of her husband, all property earned, inherited, or given to her, either before or after marriage, unless the acquisition of this property is occasioned by the payment or pledge of the husband's property (ch. 340, sec. 1, p. 1482).

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

The wife has control over only her own separate estate (ch. 340, sec. 1, p. 1482). There is no community property law in this State.

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

A wife is entitled to hold to her separate use the fruits of any judgment rendered in her favor for injury to her character.¹

A married woman may bring suit against another woman for seducing her husband. It was the intention of the legislature wholly to remove the disability of coverture in respect of wrongs and place married women on an entire equality with their husbands.² See Number 5.

¹ *Harris v. Webster* (1878), 58 N. H. 481.

² *Seaver v. Adams* (1889), 66 N. H. 142.

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.

If a married woman is either injured or damaged by another's illegal act, the statute gives her a remedy even though that other is her husband.¹ See Number 5.

¹ *Gilman v. Gilman* (1915), 78 N. H. 4.

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

Husband and wife are competent witnesses for or against each other in all cases civil and criminal, except that generally neither shall be allowed to testify against the other as to privileged communications, nor in any case where to do so, in the court's opinion, would violate marital confidence (ch. 392, sec. 29, p. 1664).

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

A married woman's right to dispose of her property by will is limited by her husband's curtesy estate in her lands, if they have had a child born to them alive; and by his right to waive the provisions of her will and take his statutory share in her estate (ch. 350, sec. 1, p. 1510; ch. 359, sec. 9, p. 1541).

No devise of the homestead can affect the estate of the surviving wife, husband, or minor children in the homestead right (ch. 260, sec. 5, p. 1087).

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

(A) The husband of a deceased wife is entitled to his estate by curtesy in all lands owned by her in her own right, as under common law (ch. 359, sec. 9, p. 1541).

A widow is entitled to her dower in the improved or cultivated real estate owned by her husband at his death. This dower must be sufficient to produce an income equal to one-third the annual income of the husband's lands at his death, or when the land was conveyed by him (ch. 359, secs. 3-5, p. 1540).

On the death of a husband or wife, intestate, or with a will unsatisfactory in its provisions for the surviving spouse and rejected by him or her, such survivor is entitled to a distributive share of the net personal estate, in addition to dower or curtesy and homestead right [See Number 3] in the following portions:

Personal Property.

1. One-third, if issue survive.
2. If testate, but no issue surviving, \$5,000 of the value, and one-half of remainder above \$5,000.
3. If intestate, and no surviving issue, \$7,500 of the value, and one-half of the remainder above the \$7,500.

Real Property.

By releasing dower or curtesy and homestead right, a surviving spouse is entitled to the following portion of all the net real estate owned by the decedent at date of death:

1. One-third, if issue survive.
2. If testate, but no surviving issue, \$5,000 of the value, and one-half of the remainder above \$5,000. Where the inventory value of all the real estate does not exceed \$5,000, the surviving spouse is entitled to all of the remainder.
3. If intestate, and no surviving issue, \$7,500 of the value and also one-half of the remainder above \$7,500. If the inventory value does not exceed \$7,500, the surviving spouse takes all of the remainder.
4. A surviving husband is entitled to one-third part of the net real estate to hold during his life, if the deceased wife leaves children not born of their marriage, and if he has no estate by the curtesy in her real estate (ch. 359, secs. 10-13, p. 1542).

(B) The remainder of the real estate not devised by will of the deceased owner, subject to the rights of husband and wife as described in the foregoing paragraphs, and to any homestead right, and liable to sale under court order, descends in equal shares (1) to the decedent's children and the legal representatives of such of them as are dead; (2) if no issue, to the parents in equal shares, or the whole to the survivor of them; (3) if neither issue nor parent living, in equal shares to brothers and sisters or their representatives; or (4) to the next of kin in equal shares (ch. 360, sec. 1, p. 1543).

The personal estate of a deceased person, not bequeathed, remaining in the hands of the administrator on settlement of his administration account, is distributed by decree of the judge: (1) To the surviving spouse, the portion prescribed by law, as set out in the fore-

going paragraphs; (2) the residue in equal shares to the same persons to whom the real estate, if there were any, would by law descend (ch. 360, sec. 6, p. 1544).

If there be no heir, legatee, or devisee of an estate, such estate passes to the widow or widower, if any (ch. 360, sec. 8, p. 1544).

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

The wearing apparel and other personal articles described in the statute, which belonged to the deceased spouse, are not to be included in the inventory of the estate, but are to be given the surviving spouse, if any; otherwise to the children, or heirs if no children, provided this property is not disposed of by will (ch. 353, sec. 5, p. 1520).

Where no will was made, or if, when made, its provisions for the widow are waived by her, the court may make for the widow a reasonable allowance out of the personal estate for her present support. In the final distribution of the personal estate, the court may order the whole of this allowance, or such part of it as he considers reasonable, to be deducted from the widow's statutory share. It is to be so accounted, also, when she elects to take one-third or one-half of the real estate instead of her dower and homestead rights (ch. 359, sec. 1, p. 1539). See Number 15.

This provision for an allowance is intended to provide for the widow's immediate wants until she can receive something from her interest in the estate. How much that shall be must depend upon the circumstances of each case, taking into account her age, health, situation of her family, number and ages of her children, and the situation and size of the estate of her deceased husband.^{1 2}

The widow may remain in her husband's house for 40 days after his death without being chargeable with rent, and in the meantime she is to have reasonable sustenance out of the estate. These provisions are to be taken into consideration by the judge in the allowance he may make to her (ch. 359, sec. 2, p. 1540).

¹ *Woodbury v. Woodbury* (1876), 58 N. H. 44.

² *Woodbury's Appeal* (1876), 57 N. H. 483.

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 20 years and women at 18 may marry without parental consent. If special causes exist rendering marriage desirable, men between 14 and 20 years of age and women between 13 and 18 years of age may marry, if in addition to the consent of the parents or guardian they obtain permission from a justice of the superior court, or the probate judge of the county where the party resides who is under age. No male below the age of 14 and no female below the age of 13 years is capable of making a valid marriage contract and all marriages contracted by such persons are null and void (ch. 338, secs. 4 to 7, p. 1472).

19. Validity of Common-Law Marriage.

Common-law marriages are not recognized in New Hampshire. The policy of the State was announced by the court at an early date, and apparently has not been changed. In 1848 the court said: "* * * temptation to illicit intercourse should be guarded against, for the sake of good morals, and has been so * * * by our practice and the usage of most civilized nations, by requiring some form of solemnization."¹ In the same opinion, reference is made with approval to a former decision, holding that attestation of the marriage contract before an official authorized to certify it to the record clerk is essential to the ceremony.²

¹ *Dunbarton v. Franklin* (1848), 19 N. H. 257, 265.

² *Londonderry v. Chester* (1820), 2 N. H. 268.

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

Each applicant for license to marry must submit with the application a statement or statements from a licensed physician that a standard blood test has been made, and that in the opinion of the physician, the person is not infected with syphilis, or in a stage that may become communicable. This statement must be accompanied by the blood-test record containing the exact name of the applicant. The test must be one approved by the State department of health, performed by it or a laboratory it has approved, on request of a licensed physician, not more than 30 days before the issuance of the marriage license. Penalties are provided for failure of any person to comply with the law. The certificate filed is not part of the marriage record but a confidential report (ch. 338, secs. 23-25, p. 1474).

A 5-day waiting period is required between the filing of notice of intention to marry and issuance of license to marry (ch. 338, sec. 26, p. 1474); but for good cause shown, the court having jurisdiction may shorten this period or may waive the blood test (ch. 338, sec. 27, p. 1475).

Every physician is required to record all cases of syphilis and gonorrhoea that come under his observation and care, to use reasonable means to find the intentions of such persons as to marriage, to warn them of the legal, moral, and physical evils of marriage contracted by them and to notify the State board of health if a patient intends to marry.

No person so reported may lawfully marry until the physician in charge of the case supplies the State board of health with a satisfactory record that such person is free from the disease and will not infect others. The town clerk is required to refuse a certificate of marriage intention to such person without the consent of the State board of health. Any person failing to comply with these provisions is subject to fine or imprisonment or both. Epileptic, imbecile, feeble-minded, or insane persons are prohibited from marrying unless sterilized, or unless the woman is over 45 years of age (ch. 338, secs. 10, 17-21, pp. 1472-1474).

21. Interstate Cooperation in Marriage Law Enforcement.

The uniform marriage and divorce act has not been adopted. It is provided by statute that parties who are residents of the State, but go

into another State to be married, must, on their return to New Hampshire to reside, file a certificate or declaration of their marriage, setting out all the information required if they had married in New Hampshire, with the clerk of the town where either of them lived prior to their marriage, within 7 days after their return, under penalty of \$10 (ch. 338, sec. 30, p. 1475).

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

Marriages contracted within the degrees of relationship prohibited by statute are incestuous and void (ch. 338, secs. 1-3, p. 1471); those contracted by males below the age of 14, or females below the age of 13 years, are null and void (ch. 338, sec. 4, p. 1471); and those contracted where either party knows at the time that he or she has a living spouse of a former marriage are void without legal process (ch. 339, sec. 1, p. 1477).¹

¹ *Bickford v. Bickford* (1908), 74 N. H. 448; 69 Atl. 579.

23. Grounds for Divorce—Respective Availability to Spouses.

The injured party may obtain a divorce for any one of the following causes: Impotency; adultery; extreme cruelty; conviction in any State or Federal district of a crime punishable with imprisonment for more than 1 year, together with actual imprisonment under such conviction; treatment seriously injuring health or endangering reason; habitual drunkenness for 3 years; desertion for 3 years without being heard of; when one party has joined a religious sect which prohibits cohabitation, and has refused to cohabit for 6 months together; refusal to cohabit for 3 years without sufficient cause and without the consent of the other party.

The husband may obtain a divorce when the wife has willingly absented herself from him, without his consent, for 3 years together, or when the wife has gone to reside outside of the State and has remained absent from him for 10 years without his consent and without returning to claim her marriage rights.

The wife may obtain a divorce when the husband has willingly absented himself for 3 years together, without making suitable provision for her support and maintenance. The wife of an alien or citizen of another State may obtain a divorce when she has resided in this State for 3 years, separate from her husband, who has left the United States with the intention of becoming a citizen of some foreign country, and has not during that period come into the State and claimed his marital rights and has not made suitable provision for his wife's support (ch. 339, sec. 6, p. 1478).

III.—PARENTS AND CHILDREN

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

The powers, rights, and duties of the father and mother in regard to their unmarried minor children are equal (ch. 342, sec. 4, p. 1490). In construing this statute, the court said: "The right to service, being correlative to the duty to support, accrues to the parent who actually

performs the duty. Whether the father or the mother or both have entitled themselves to compensating services of the minor is a question of fact."¹

¹ *Lessard v. Great Falls Woolen Company* (1929), 83 N. H. 576, 581.

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

The father and mother of an unmarried minor child are joint guardians with equal powers, rights, and duties in regard to the child (ch. 342, sec. 4, p. 1490).

The judge may appoint the father or mother, or any person nominated by either, to be the guardian of a child, as he shall think most conducive to the interest of the child (ch. 342, sec. 15, p. 1491).

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

Upon the death of either parent, the survivor becomes the sole guardian of the person of the child (ch. 342, sec. 4, p. 1490).¹

¹ *White v. White* (1913), 77 N. H. 26, 29; 86 Atl. 353.

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

See Number 15.

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

When either the mother or the town has made complaint as provided by law, and the man is found chargeable, after hearing in court, the court will order him to pay such sum as it deems reasonable to the mother of the child or to the town authorities responsible for the maintenance of it, to be applied to such maintenance, and also the costs of the court proceeding. The court may then order the father, or the mother, or both to give security to save the town harmless from all charge for the maintenance of the child. Failure to comply with the court's order subjects the offender to prison commitment until the order is obeyed (ch. 128, secs. 1-12, pp. 505 to 507).

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

The mother and her heirs inherit from such child, as provided in the statutes governing descent and distribution (ch. 360, sec. 4, p. 1544). See Number 15.

B.—POLITICAL RIGHTS

30. Domicile of Married Women.

The Supreme Court of New Hampshire has said—
 “* * * since the law puts her [the married woman] upon an equality, so that he [the husband] now has no more power and authority over her than she has over him, no reason would seem to remain why she may not acquire a separate domicile for every purpose known to the law. If, however, there are exceptional cases, when for certain

purposes, it might properly be held otherwise, there can be in this jurisdiction no reason for holding that when the husband has forfeited his marital rights by his behavior, the wife may not acquire a separate domicile, and exercise the appertaining rights and duties of citizenship with which married women have become invested. * * * the good sense of the thing is that a wife cannot be divested of the right of suffrage, or be deprived of any civil or legal right, by the act of her husband; and so we take the law to be. Whenever it is necessary or proper for her to acquire a separate domicile, she may do so. * * * This is the rule for the purposes of divorce, and it is the true rule for all purposes."¹

¹ *Shute v. Sargent* (1893), 67 N. H. 305; 36 Atl. 282.

31. Public Office—Eligibility of Women.

Every inhabitant of the State, having the proper qualifications, has equal right to elect, and be elected, into office (Const., pt. 1, art. 11). Every person qualified as the Constitution provides is considered an inhabitant for the purpose of electing and being elected into any office (Const., pt. 2, art. 30).

In an opinion rendered by the Justices of the Supreme Court of the State, upon request of the Governor in connection with the application of a woman citizen to be appointed a justice of the peace, it is said—

“As to elective offices, women are now eligible in this State upon the same terms as men, because they now answer our constitutional test. They are qualified voters, and as such have the constitutional guaranty of the right to be elected to office. The elective offices referred to in article 30 are those which are filled by the direct exercise of the franchise of the voters. The article has no application to officers elected in other ways * * * as to all appointive offices the Constitution is silent as to sex qualification; and it is within the legislative power to abolish in whole or in part, the common-law disability of women in respect to such offices.”¹

The legislature took action on this phase of the matter in its regular session of 1929, by passing “An Act Relating to the Appointment of Women to Public Office,” which provides that: “Except as otherwise specified by statute, women may hold and be appointed to public office upon the same terms and conditions as men” (ch. 43, sec. 3, p. 175).

¹ *Opinion of the Justices* (1927), 83 N. H. 589; 139 Atl. 180, 183.

32. Jury Service—Eligibility of Women.

Women are eligible for jury duty, but they are not compelled to serve. A woman's name will not be placed on the jury list unless she has first appeared before the selectmen and registered for jury service (1947, p. 109).

Special Topics.

Taxation.—The husband is liable for his wife's poll tax as well as his own, if they are living together as husband and wife (ch. 73, sec. 6, p. 295).

