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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
VIRGINIA

*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. 157-45 (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

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.

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 Virginia. 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.

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.

VIRGINIA

SOURCES

Constitution of Virginia.
Virginia Code of 1942, Annotated.
Session Laws, 1944.
Virginia Reports.
Southeastern Reporter.

EXPLANATORY NOTE

References to the State Constitution are indicated by parenthetical insertions of section numbers following the abbreviation Const., as (Const., sec. 32), placed after the related subject matter.

Code section references are likewise in parentheses, thus (sec. 5135). Session laws are referred to by year of enactment and page number, as (1944, p. 181).

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."

VIRGINIA

A.—CIVIL RIGHTS

I.—CONTRACTS AND PROPERTY

1. Age of Majority.

The age of majority for both sexes is 21 years, as at common law, which governs in the absence of an express statute. See Number 2.

2. Contractual Powers of Minors.

By statute, the disability of infancy is declared removed by marriage for the purpose, and to the extent, only, that an infant husband or wife may dispose of his or her contingent right of curtesy or dower in real estate by joining the other spouse in the deed or contract (secs. 5135, 5338a).

If a married woman who is a minor desires to sell her separate real estate, court procedure is necessary, as provided by law (sec. 5137).

If she is entitled to any estate, she does not, during marriage and while a minor, have control and management of the property, but a receiver for the purpose is appointed by the court on petition (sec. 5136).

A minor who is transacting business as a trader without disclosing his minority by specific methods set out, is liable for his debts to the extent of the property employed in the business (sec. 6108).

A minor may be appointed as a notary public when 18 years of age or over, and is fully liable for official acts (Const., sec. 32) (sec. 2851).

A valid will may be made by an infant of 18 years or over as to personal property only (sec. 5228).

A minor is not bound by an express contract to pay for necessaries any more than their actual value, nor is he bound unless the contract is for necessaries actually required by him.¹

But as to other acts and contracts of persons under 21, the rule is that generally they are voidable, subject to the minor's affirmation or repudiation at majority.²

¹ *Bear's Adm. v. Bear* (1921), 131 Va. 447; 109 S. E. 313.

² *Strother v. Lynchburg Bank* (1931), 155 Va. 826, 829, 832; 156 S. E. 426.

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

The exemptions are allowed to "every householder or head of a family residing in this State," or to his widow and minor children,

or either of them, after his death; or to "a laboring man or woman who is a householder or head of a family" (Const., sec. 190) (secs. 6531, 6536, 6537, 6539, 6541, 6552, 6553, 6555, 6556, 6562).

The statute declares the words "householder," and "householder or head of a family" equivalent, and the term "laboring man" to include all householders who receive wages for their services (sec. 6566).

A court decision rules that the relation of dependence and support, coupled with a legal or moral obligation to support the dependent, constitutes the one upon whom the burden is cast as the head of a family, and entitles such person to the benefit of the exemption.¹

A circuit court of appeals decision, construing the Virginia exemption provisions in the Constitution and the statutes relating to homestead, ruled that a wife living with her husband, having a separate estate, and being the debtor, may be the head of the family for homestead purposes.²

¹ *Oppenheim v. Myers* (1901), 99 Va. 582, 586; 39 S. E. 218.

² *Richardson v. Woodward* (1900), 44 C. C. A. 235, 240; 104 Fed. 873, 879.

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

See Number 9.

5. Contractual Powers of Married Women.

A married woman may make contracts, sue and be sued, as freely and with as full liability as if she were unmarried, except that she cannot defeat, by her sole action, her husband's curtesy right in her separate property (sec. 5134).

The statute has wiped out all the husband's rights [in the wife's separate property] except as to his curtesy. The effect is to give the wife as full control over her property during the coverture as her husband has over his. She may sue her husband as if he were a stranger, and hold him to account in connection with transactions regarding her lands.¹

Under the Uniform Small Loan Law, no assignment of a spouse's wages, salary, or other compensation for services, nor a mortgage lien on household furniture, is valid as security for such a loan, unless in writing signed in person by both husband and wife, provided the spouses have not been living separate and apart for a period of at least 5 months prior to such an assignment or mortgage (sec. 4168, subsec. 54). See Number 9.

A married woman may issue power of attorney to execute or acknowledge any deed or writing, which she herself might make. This power is fully effective to convey her interest on her dower (sec. 5215).

¹ *Edmonds v. Edmonds* (1924), 139 Va. 652, 657, 658; 124 S. E. 415, 416.

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

Under the provisions of the Married Woman's Act [sec. 5134] the wife may accumulate a separate estate through her earnings. But she must strictly prove her right to such property in a contest between her husband's creditors and herself, since the presumption of law is

that property in her possession during marriage belongs to the husband.¹

¹ *Harris v. Carver* (1924), 139 Va. 676; 124 S. E. 206.

7. Liability of Married Woman for Family Necessaries.

A married woman is liable for necessaries only if she contracts directly for them in her own name (sec. 5134). The court holds that the enactment of this statute has not changed the common-law liability of the husband to support his wife in keeping with his circumstances and his wife's needs.^{1 2}

¹ *Hall v. Stewart* (1923), 135 Va. 384, 389; 116 S. E. 469.

² *Mihalcoe v. Holub* (1921), 130 Va. 425, 429; 107 S. E. 704.

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

A married woman has the right to engage in trade and carry on business on her own account for her separate use and benefit in the same manner as if she were unmarried.^{1 2}

¹ *Harris v. Carver* (1924), 139 Va. 676, 680; 124 S. E. 206.

² *Cutlett v. Alsop* (1901), 99 Va. 680, 684; 40 S. E. 34.

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

A married woman may have a statutory separate estate, which she has the right to acquire, hold, use, control, and dispose of as if she were unmarried. This applies to the property of married women acquired since April 4, 1877, the effective date of the Married Woman's Act. Her husband has no control over such estate, but is entitled to curtesy in the real property belonging to her statutory separate estate, which right cannot be defeated by the sole act of the wife. But neither his right to curtesy nor his marital rights entitle him to the possession or use, or to the rents, issues, and profits of such real estate during the marriage; nor is her property subject to the husband's debts or liabilities (sec. 5134). The court has ruled that the effect of this statute is to give the wife as full control over her property during the marriage as her husband has over his; that his right to curtesy and his marital rights give him no more power or authority over his wife's property than if he were a total stranger.¹

A married woman may have also an "equitable separate estate," specifically recognized by the statute, which provides that such estates may be created as they were prior to the adoption of the Married Woman's Act, and that the instrument creating them determines by its provisions how the property composing them shall be held and the power to be exercised over such property (sec. 5139).²

The husband has his curtesy right in any real estate included in the equitable estate on the death of the wife, unless the instrument creating the estate expressly precludes it.³

¹ *Edmonds v. Edmonds* (1924), 139 Va. 652, 658; 124 S. E. 415 [cited with approval in *Commonwealth v. Rutherford* (1933), 160 Va. 524; 169 S. E. 909].

² *Price v. Planters' Nat. Bank* (1896), 92 Va. 468, 472; 23 S. E. 887.

³ *Jones v. Jones* (1899), 96 Va. 749, 752; 32 S. E. 463.

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

The Married Woman's Act recognizes the common-law rule that in return for the husband's obligation to support his wife, he is entitled to her services about domestic affairs [see sec. 5134]. Whatever property a wife has in possession during the marriage is presumed to be the husband's, in a contest between his creditors and herself, and she must prove that the property is her own, derived from a source other than her husband, and in good faith, if he is insolvent, "otherwise a wide door would be opened to fraud."¹ See Number 6.

¹ *Harris v. Carver* (1924), 139 Va. 676, 680; 124 S. E. 206.

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

In an action by a married woman to recover for a personal injury inflicted on her, she may recover the entire damage sustained, including the personal injury, expenses arising out of the injury (whether chargeable to her or her husband), notwithstanding that the husband may be entitled to the benefit of her services about domestic affairs and consortium; and no action for such injury, expenses, or loss of services or consortium may be maintained by the husband (sec. 5134).¹ See Number 5.

¹ *United Dentists v. Bryan* (1932), 158 Va. 880; 164 S. E. 554.

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.

A married woman cannot sue her husband for damages for an assault committed upon her by him during the marriage.¹

¹ *Keister's Admr. v. Keister's Est.* (1918), 123 Va. 157; 96 S. E. 315; 1 A. L. R. 439. (Hist.)

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

Husband and wife are competent generally to testify for or against each other in both civil and criminal cases (sec. 6210).

In criminal cases the spouses are competent, and may be compelled, to testify in behalf of each other, but neither may be compelled without the other's consent to testify against the other unless the case involves an offense committed by one against the other (sec. 6211).

Neither spouse may testify, in any case, without the other's consent, as to any communication privately made by one to the other during the marriage (sec. 6212).

In prosecutions under desertion and nonsupport statutes, husband and wife are competent witnesses against each other (sec. 1941).

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

There are no restrictions as to the making of a will by a married woman, except that she cannot defeat her husband's curtesy right in

her separate legal estate (secs. 5134, 5227, 5228). She may make valid powers of appointment by her will (sec. 5230).

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

Upon the death of either spouse, the survivor is entitled to a life interest in one-third of the real estate owned by the deceased during the marriage, provided such interest has not been legally barred or relinquished by the survivor. Both are interests created by statute, that of the widow being called dower, and that of the husband curtesy. If the decedent leaves no will nor issue, the survivor takes the dower or curtesy interest in one-third of all the real estate, and in addition thereto, subject to the rights of the decedent's creditors, the widow is endowed of, or the surviving husband takes an estate by the curtesy in, all the residue of such real estate. If the decedent dies partially intestate and without issue, the living spouse may take the one-third life interest, together with a life interest in the residue of such real estate after payment of debts and distribution of the property passing by the will. The husband's curtesy extends also to any equitable separate estate the wife may own, unless his right be expressly precluded by the instrument creating such estate (secs. 5117, 5139a, 5158).

Curtesy is barred by the wife's devise of land to her husband instead of his curtesy right. But he may renounce the will as provided by law (sec. 5139b).

Either spouse may bar his or her statutory interest of curtesy or dower by joining in a deed of conveyance of the other's lands (secs. 5134, 5135, 5211).¹ The right may be relinquished also by the execution of an antenuptial agreement to that effect or settlement by deed of jointure prior to marriage (sec. 5120).² See Number 17.

Willful desertion or abandonment by one spouse, continuing until the death of the other, bars the guilty spouse of all interest in the decedent's estate, either by dower or curtesy, by distribution, or otherwise (secs. 5123, 5140).

A decree granting absolute divorce destroys the curtesy and dower rights of each spouse in the estate of the other (sec. 5111).³

At the death of husband or wife the absolute title to the real and personal property composing the decedent's estate descends or is distributed as follows:

A. The real estate of an intestate decedent descends subject to curtesy or dower: (1) To his or her children and their descendants; (2) if there be no child nor the descendants of any child, then to decedent's father and mother, or the survivor; (3) if there be neither father nor mother, then to his or her brothers and sisters and their descendants; (4) if there be none of these, then the whole real estate goes to the surviving consort of the intestate (sec. 5264).

B. The personal property of a married decedent not disposed of by will is to be divided as follows, subject to the statutory exemptions, payment of funeral expenses, charges of administration, and debts: One-third of such surplus to the surviving spouse, if the decedent left children or descendants of such children of any marriage or by adoption, but if no children or their descendants survive, the living spouse is entitled to the entire surplus, except that where the intestate

was a married woman and left only illegitimate children or their descendants, the surviving husband is entitled to only one-third of such surplus (sec. 5273). See Number 17.

The portion of a married woman's estate not disposed of by her will descends or is distributed according to the statutes referred to under sections A and B preceding, but subject to the payment of her debts and her surviving husband's estate by curtesy (sec. 5138).⁴

Survivorship in estates by joint tenancies has been abolished (sec. 5159); but statutory exception is made of any estate conveyed or devised to persons in their own right, when the instrument of devise or conveyance plainly intends that the part of one owner dying should then belong to the others (sec. 5160). In such a case, an estate of tenancy by the entirety, with the whole title continuing in the survivor, is held to exist between husband and wife.⁵

¹ *Banker's Loan and Investment Co. v. Blair* (1901), 99 Va. 606, 611; 39 S. E. 231.

² *Land v. Shipp* (1900), 98 Va. 284, 291; 36 S. E. 391; 50 L. R. A. 560.

³ *Jones v. Kirby* (1926), 146 Va. 109, 111; 135 S. E. 676.

⁴ *Powell v. Tilson* (1933), 161 Va. 318, 331; 170 S. E. 750.

⁵ *Allen v. Parkey* (1930), 154 Va. 739, 746.

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

Upon the death of a householder, the widow, minor children, or daughters who have never married, or such of them as then constitute the household, receive absolutely and exempt from any claims of the estate, that personal property set apart by law to the householder as exempt from his debts. The wearing apparel of the debtor and his family is included in such exempt property (secs. 6552, 6562).

Besides this, if there are creditors of the husband the widow and minor children, or either, are entitled to the homestead, or the \$2,000 allowance of personal estate in lieu of the homestead, to which the decedent householder was entitled (secs. 6536, 6539),¹ provided, in the case of the widow, she has not accepted her dower or jointure (sec. 6538). This homestead right extends to the widow until her death or remarriage (sec. 6536).²

The widow is entitled to occupy the "mansion house and curtilage" without charge for rent, repairs, taxes, or insurance, also to receive one-third part of the net income from the other real estate, until her dower is assigned (sec. 5124).

¹ *Helm v. Helm's Admr.* (1878), 71 Va. 404, 412.

² *Davis v. Davis* (1903), 101 Va. 230, 235; 43 S. E. 358.

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

If any provision is made for the surviving spouse in the will of the decedent and renunciation is made according to law, or if no provision appears in the will for the living spouse, and issue survive the decedent, the living spouse takes one-third of the surplus of the decedent's personal estate. If no issue survive, the living spouse takes one-half of such surplus (sec. 5276).

If either spouse leave the other and live in adultery, he or she has no part of the personal estate as to which the deceased spouse dies intestate, which would otherwise be distributed under sections 5273 and

5276, unless reconciliation occurred and the spouses lived together afterward (sec. 5277).

If a deed or will conveying or devising property, real or personal, in lieu of dower by express terms, be made before the marriage without the assent in writing or during the infancy of the female, or if it were made after marriage, in either case the widow may at her election waive such jointure and demand her dower, provided she makes her election within 1 year after the death of the husband or within 1 year after the admission of his will to probate where the provision is by will (sec. 5121).¹

¹ *Rutherford v. Mayo* (1882), 76 Va. 117, 124.

II.—MARRIAGE AND DIVORCE

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

If either party is under 21 years of age, and not previously married, the consent of the father or guardian or, if there be none, of the mother, of such person, must be given either personally to the clerk or judge, or in writing, subscribed by a witness under oath, or certified by an officer under seal. When there is no parent or guardian to give consent, the judge of the circuit court or corporation court where the female resides, may authorize the marriage (sec. 5078).

The minimum age at which minors may marry with consent of the parent or guardian shall be 18 years for males and 16 for females. In those cases where the female applicant is pregnant and either party is under the legal age of consent, the clerk may issue a license to marry, on consent of the parent or guardian of the person under age and a doctor's certificate that pregnancy exists (sec. 5090).

It should be noted that the rape statute contains the former minimum ages of consent (sec. 4414).

19. Validity of Common-Law Marriage.

Every marriage in the State must be under a license and solemnized according to law (sec. 5071).^{1 2}

¹ *Offield v. Davis* (1902), 100 Va. 250; 40 S. E. 910 (Hist.).

² *Stanley v. Rasnick* (1923), 137 Va. 415; 119 S. E. 76.

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

Marriage is forbidden to a woman under 45 or a man of any age (unless he marries a woman over 45 years of age) who is idiotic, imbecile, hereditarily epileptic, or insane (sec. 5088a).

Each applicant for license to marry must file a physician's certificate that evidence and serological tests have been obtained as required by law, to determine whether syphilis is present. If the disease is present, the physician must inform both applicants of the fact, and advise them of possible consequences.

No licensing clerk may refuse a license because syphilis is shown by the required tests to be present.

Upon marriage, the infected person and the other spouse are to obtain treatment as prescribed by the State health commissioner. Failure or refusal of the infected person to take or continue treatment for the disease constitutes a misdemeanor (sec. 5073a).

21. Interstate Cooperation in Marriage Law Enforcement.

Certain marriages which are declared void in the State because they are violative of public policy, will not be recognized even though contracted in a State where they are not prohibited, if the parties return to Virginia to reside as man and wife (sec. 5089).

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

A marriage may be annulled because of a prohibited degree of kinship, mental or physical incapacity at time of marriage, bigamous marriage, or a prohibited interracial marriage (secs. 5087-5090, 5100).

23. Grounds for Divorce—Respective Availability to Spouses.

The aggrieved spouse may be granted an absolute divorce on one of the following grounds: Adultery; incurable physical impotency existing at the time of marriage; sentence after marriage to confinement in a State or Federal prison, without subsequent cohabitation; conviction of an infamous offense prior to the marriage, without the knowledge of the petitioner; indictment for an offense punishable with death or penitentiary imprisonment, followed by flight from justice and absence for 2 years; willful desertion or abandonment for 2 years.

The husband may be granted an absolute divorce if at the time of the marriage, without his knowledge or agency, the wife was pregnant, or if prior to the marriage, without his knowledge, she had been a prostitute. However, if the aggrieved spouse cohabits with the offender after knowledge of a conviction for an infamous offense, or a husband cohabits with the wife after he has had knowledge of her pregnancy by another or of her having been a prostitute, no divorce can be granted (sec. 5103).

A divorce from bed and board may be granted for cruelty, reasonable apprehension of bodily hurt, abandonment, or desertion (sec. 5104).

Upon absolute divorce for any cause arising after the marriage, neither party is permitted to marry any other than the former spouse within 4 months from the date of the decree granting the divorce (sec. 5113, as amended 1944, p. 181).

In granting a divorce for adultery, the court may decree that the guilty party shall not marry again at any time. However, this provision of the decree may be revoked by the court at any time after the expiration of 6 months from the date of the decree, if good cause is shown for such action (sec. 5114).

III.—PARENTS AND CHILDREN

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

There is no statute specifically changing the common law with respect to the right of the father to the earnings of the child, but there are certain statutes which limit that right.

Wages of a minor are not liable to garnishment, or other process, for the debts of the parents (sec. 6558).

Under the Workmen's Compensation Act, any compensation in a sum not exceeding \$300, for injuries sustained by a minor under 18 years of age, or as a distributive share by virtue of the act, may be paid to the father, mother, or natural guardian upon whom such infant or minor is dependent for support (sec. 1887, subsec. 48).

No decision has been found construing the statute since its amendment in 1930, as to the rights of the parents to the child's services and earnings. Under the former law, the father, as the natural guardian of his children, was entitled to these, the mother having no right in them unless she survived the father. See 1924 Code, section 5320.

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

The father and mother of every legitimate unmarried minor child are by statute made joint natural guardians of the person of such child, with equal legal powers and equal legal rights in relation to it, provided the parents are living together, are suitable persons, and are respectively competent to transact their own business. Upon the death of either parent, the survivor becomes the natural guardian of the child's person. If either parent has abandoned his or her family, the other becomes the natural guardian of the child's person (sec. 5320).

Either parent may be designated by a court having control of a fund of less than \$500, for an infant incapable of handling his estate or annual income, to receive and administer such fund for the child's education, maintenance, and support (sec. 5343).

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

A testamentary guardian may be appointed by either parent only for the estate of his or her infant child, bequeathed by the testator to such child. The right of custody of the child's person is in the surviving parent by statutory provision, as long as the parent is a fit and proper person to have control of the child (sec. 5314).

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

If the decedent leaves no issue, his or her parents take equal portions in the estate subject to distribution (secs. 5264, 5273). See Number 15.

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

There is no provision for adjudging the paternity of such a child and no attempt to fix responsibility for its support. However, the practice in some counties is reported to be to determine the parentage under sections 1905 and 1912, relating to delinquent, dependent, and destitute children, and then compel contribution from the adjudged father to the support of the child.

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

The mother inherits from her illegitimate child in the same manner as if it were born in wedlock (sec. 5268).¹

¹ *Garland v. Harrison* (1837), 8 Leigh (35 Va.) 368. (Hist.)

B.—POLITICAL RIGHTS

30. Domicile of Married Women.

For the purpose of registering and voting, the residence of a married woman is not controlled by the residence or domicile of her husband (sec. 82a). A wife may establish a separate domicile whenever it is necessary and proper that she should do so to prevent permanent impairment of her physical or mental health. And the courts of either State may then determine the status of the party domiciled there, and such determination will be entitled to full faith and credit in every other State.¹

Where the husband abandons the wife, forsaking the obligations which the marriage relation imposes upon him, and relinquishing his marital control and protection, the wife has a right to establish a separate domicile from him, and is entitled to sue there for divorce.²

The domicile of a married woman may be separate from that of her husband, if she chooses, in determining the taxability of income and intangible personal property belonging to a married woman domiciled in another State whose husband's domicile was in Virginia.³

¹ *Humphreys v. Humphreys* (1924), 139 Va. 146, 161, 162; 123 S. E. 554.

² *Steckel v. Steckel* (1915), 118 Va. 198, 200; 86 S. E. 833.

³ *Commonwealth v. Rutherford* (1933), 160 Va. 524; 169 S. E. 909, 911; 90 A. L. R. 348.

31. Public Office—Eligibility of Women.

Women who are qualified electors are eligible for election to public office (Const., secs. 18, 32).

32. Jury Service—Eligibility of Women.

Women are not eligible for jury service (sec. 5984).

