

‘[...] in all respects as if she were a *feme sole*’: married women’s long road to a legal existence

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Abstract

Looking back from our vantage point in the second decade of the twenty-first century, we may all too easily be distracted by the high-profile campaign for women’s suffrage that occupied the years before the Great War and forget that the feminist movement began at least half a century earlier. In the mid-1850s a campaign began which would improve the lot of all women in years to come, although it addressed an issue which at the time only affected a proportion, albeit a sizeable one, of adult women. The hardship that it addressed was one that married women suffered through the operation of the common law maxim enunciated by Bracton in the thirteenth century but already long established, that ‘*vir et uxor sunt quasi unica persona*’, and reiterated by Blackstone five centuries later in the words ‘[b]y marriage, husband and wife are one person in law’.

The article briefly explains the effect at law of this maxim and the steps taken by equity to mitigate it, before charting the progress of the campaign to redress the position. This campaign began not long after Barbara Leigh Smith published her booklet *A Brief Summary in Plain Language of the Most Important Laws concerning Women together with a Few Observations thereon* in 1854 and culminated in the Married Women’s Property Act 1882. However, as the article will demonstrate, there still remained some unfinished business so far as the legal status of the married woman was concerned which would not be resolved until well into the next century.

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