

Coverture

Coverture was a legal principle imported to the American colonies as part of English common law. Like other common laws, it was based on court decisions and customs that developed slowly over time, and were unwritten for centuries. In the 1760s, William Blackstone collected and published them for the first time in his four-volume *Commentaries on the Laws of England*. A judge and legal scholar, Blackstone did not create the law of coverture, but when he committed it to paper, he made it real and concrete in a way it had not been before.

The word “coverture” came from the French term for “covered.” A married woman, according to the law, was included in (or covered by) her husband’s legal identity; she did not exist legally apart from him. Married women could not make a will or own property. They had no rights to wages they earned, and lost control of anything they owned before marriage. If a husband chose to send his child away as an apprentice, his wife had no say in the matter. Unmarried women, including widows, had more legal rights, but they were seen as sad

figures, and had few opportunities. Most young women married, and most widows remarried.

Ironically, William Blackstone committed coverture to the written record during the Enlightenment, just as philosophers developed the revolutionary concept of natural rights—universal rights that do not have to be granted by a governing body. Enlightenment ideas inspired the rebellion brewing in the colonies. Abigail Adams saw an opportunity in the language of natural rights, and wrote to her husband, John Adams, in March 1776: “In the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more generous and favorable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could.” She was not writing generally about women’s rights, or specifically about the right to vote. She was asking for relief from coverture. John responded, “I cannot but laugh.”

After the Revolution, the United States adopted the common

The Language of Coverture

By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least is incorporated and consolidated into that of the husband; under whose wing, protection, and cover, she performs every thing; and is . . . under the protection and influence of her husband, her baron, or lord; and her condition during her marriage is called her coverture. Upon this principle, of an union of person in husband and wife, depend almost all the legal rights, duties, and disabilities, that either of them acquire by the marriage. . . . [E]ven the disabilities which the wife lies under, are for the most part intended for her protection and benefit. So great a favourite is the female sex of the laws of England.

Sir William Blackstone, *Commentaries on the Laws of England*, Book the First: Chapter the Fifteenth: Of Husband and Wife. 4 vols. Oxford: Printed at the Clarendon Press, 1765–1769.

C. Schessele, *Mrs. John Adams (Abigail Smith)*, ca. 1775. Engraving, New-York Historical Society Library, PR 52.



law system that the colonies had then lived under for more than a century. The U.S. Constitution and Bill of Rights used much of the common law language, and specifically incorporated bedrock legal principles, like the right to trial by jury. Individual states also adopted English common law, often by passing “reception statutes.” Virginia’s 1776 law was typical: “The common law of England, insofar as it is not repugnant to the principles of the Bill of Rights and Constitution of this Commonwealth, shall continue in full force within the same, and be the rule of decision, except as altered by the General Assembly.”

With this or similar language, some of the ancient laws were filtered out—those that related to the king, for example. Others were soon changed or dropped by elected legislatures. But coverture, which dated to the middle ages, was allowed to stand. Impractical as it was in the new nation, it was not “repugnant” because none of the founding documents addressed the rights of women.

Casting a shadow well beyond married women’s legal rights, coverture created attitudes that



Unknown artist, *Sir William Blackstone*, ca. 1755. Oil on canvas. National Portrait Gallery, London, Primary Collection, 388.

seemed like hard truths: women were dependent, delicate, and dim-witted, while men were steady, tough, and rational. The cleverest women and the gentlest men were all painted with this broad brush. The law affected unmarried women as well, who were considered “covered” by their fathers before marriage. Most girls received little or no education, and most women lacked the preparation and confidence to hold a job or pursue a profession. Poor women, white or black, also lacked skills, but they had

to work anyway. Their husbands, however, controlled their wages. (Attitudes that developed from coverture were reinforced, and sometimes challenged, by religious teaching. For more, see the life story of *Jarena Lee* and *Resource 12*.)

Coverture affected the lives of all American women. It has been diminished over time, but vestiges of it remain even today. Only a constitutional amendment would abolish coverture entirely.

Discussion Questions

- ★ Under coverture, what is the legal status of a married woman?
- ★ Sir William Blackstone, when considering the coverture laws, states that the “disabilities” that women suffer under coverture are in fact to their benefit. What are these “disabilities”? What do you think of his assessment?

Sources: Catherine Allgor, “Coverture – The Word You Probably Don’t Know but Should,” National Women’s History Museum, <https://www.nwhm.org/blog/coverture-the-word-you-probably-don%E2%80%99t-know-but-should/> (accessed by M. Waters, 10-15-2016); Linda K. Kerber, *No Constitutional Right to be Ladies: Women and the Obligations of Citizenship* (New York: Hill and Wang, 1998).