Women’s Legal Status in Vermont
by Lyn Blackwell

From the time Vermont established a legal system in the 1780s until the early twentieth century, women’s relationship to the family determined their legal and political status as citizens. The concept of coverture, derived from the British common law tradition, formed the basis of marriage law and custom; it obligated the male head of each household to protect, support, and represent its female occupants and minors. Wives were expected to serve the household by birthing and nurturing children and laboring in food, cloth, or other home-based production.

Women’s political rights followed that of their husbands, fathers or brothers, who represented them at the polls. Almost all freemen, black or white, could vote in Vermont after a year of residency. The legal and political system applied to African American women and to Native American women who married white men. Other Native American women lived largely on the margins of white society and followed the rules of their own culture as described under Abenaki Women.

Wives’ legal identity was merged with that of their husbands. Married women could not own property directly, sign legal contracts, or sue for debts; they held no individual rights to their children. They could provide legal testimony (except against their husbands), but they could not serve on juries. By custom, women were allowed to petition local officials about family or other issues, including divorce.

Widows and single women who headed households could own property, but they were usually represented in court by appointed trustees. Widows were granted dower rights to one third of the income of their husbands’ estates, unless a man’s will stated otherwise. Children received the remainder of the income and ownership of the assets; an estate without direct heirs descended to other male relatives. Widows often became dependent upon their children and other relatives.

While this patriarchal legal system excluded women from many legal rights we take for granted today, it did provide some women with economic security because their male relatives were legally obligated to support them and pay their debts. Wives of poor men, however, often struggled to feed their children and sometimes resorted to indenturing them.

Vermont law allowed females under 18 and males under 21 to be indentured to a master for food and clothing; the child in turn owed labor and service to him. For an indentured girl, the practice could increase the possibility of sexual exploitation. In some cases, the indenture system also allowed white officials to coerce African American, Abenaki, or other families of mixed race or ethnicity to give up their children.
The social stigma surrounding divorce prevented many women from petitioning to end a bad marriage; some wives simply separated from their husbands. Even before statehood, however, Vermont’s divorce and separation rules were more lenient than those of many other states. By the early nineteenth century, divorces were granted not only for adultery, fraudulent contract, and desertion, but also for impotence and “intolerable severity” or cruelty. Vermont courts also proved to be liberal in allocating alimony to wives. During the 1970s and 1980s, reforms in Vermont’s marriage laws provided for no-fault divorce, equitable division of property, and revised custody rules based upon the best interest of a minor child.

In other respects, Vermont lawmakers were slow to modify women’s legal and civil rights. Married women gained more control over their inherited real estate and could write wills after 1847, partly as a result of the reform efforts of Clarina Howard Nichols. They could not control personal property, including their own clothing and household goods, until 1867. Rights to make contracts and to sue were granted in 1884 and to control their own earnings in 1888, over two decades after women in New York had gained the same rights. Husbands retained marital rights related to sales of wives’ real estate until as late as 1919, long after most states granted women full control of their own assets.