The Dawn of the Woman’s Movement.

An Account of the Origin and History of the Pennsylvania Married Woman’s Property Law of 1848.

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In these days when the social position of the women is equal to that of the men, and when the women have obtained the political franchise in nine of the United States, (2) and in many of the countries of Europe, it is of interest to lift the curtain from the past, and obtain a view of the beginning of the movement for this equality. Originally it contemplated only an adjustment of the woman’s place in the social organism. At first no specific demand was made; there was only the vague complaint that her position was lower than that of man. The arguments covered the whole range of woman’s wrongs, but no plan was presented by which is was expected to correct the existing evils. The political equality of woman with man was not agitated. The most obvious wrongs were those sustained by woman in the property rights accorded her upon marriage. This phase of the woman question was already being seriously considered by the men themselves, and it was on this proposition that the men and women united their forces, and inaugurated a campaign, which was the first in the modern war for the equality of women with men.

The men had crowned themselves sovereigns, when they fought the Revolutionary War and broke the cord which bound the country to England. But the women were still enveloped in the medievalism of the common law, which was brought from England, and prevailed in nearly all the states. The pages of Blackstone’s Commentaries present a vivid

(1) Address delivered on November 2, 1914, before the Woman’s Historical Society of Pennsylvania.

(2) This has now been increased to twelve states, and the Territory of Alaska. In six other states women have the presidential suffrage; and in one state they are entitled to vote at primary elections.
picture of the humiliating spectacle. Even today the marriage state is termed coverture, and the wife a feme covert. In the old days the husband and wife were styled baron and feme. The word baron, or lord, indicated that the husband was dominant, and that the wife was under his influence and protection. If the baron killed his feme it was the same as if he had killed an actual stranger, but if the feme killed her baron, the act was regarded as a much more atrocious crime, because she not only broke through the restraints of humanity and conjugal affection, but threw off all subjection to the authority of her husband. Therefore the law denominated her crime a species of treason, and condemned her to the same punishment as if she had killed the king. Upon marriage her personal property, (1) whether then owned by her or afterward acquired, went to her husband to do with as he pleased. If she earned money during coverture, this also belonged to her husband. The husband was entitled to all the income of her real estate. In only a few of the newer and least populous states, as Louisiana and Florida, and the young territory of California, which had received their laws directly or indirectly from France or Spain where the civil law prevailed, or in states which were influenced by proximity to states whose laws were based on the civil law, like Mississippi, the wife was allowed to retain her separate estate.

The entire movement for the equality of women with men was the result of evolution. The success of the American Revolution had demonstrated the possibilities attainable in free government and in improved social conditions. The French Revolution had shown that the will of the people is supreme above that of kings and nobles. The seeds of both movements were sown all over the continent of Europe; and in the next fifty years they were to again sprout in France; they were to take root and grow in Spain, Portugal, Italy, Greece and Poland. The seeds were to be wafted into Germany and Austria-Hungary, where in 1848

and 1849, the burghers and the peasants were to fight against absolutism. In the United States there had been a wonderful material development since the close of the Revolutionary War. Toward the middle of the century railroads were introduced, as was electric telegraph; the post was greatly improved and cheapened, and intercourse between widely separated districts became both easy and expeditious. The radicalism of the Revolution became more pronounced and sometimes degenerated into absurdity. Political parties were born of a passing fancy or prejudice. Monstrosities like the Anti-Masonic party, and the Native American party came into existence. (1) The one owed its rise to the strong antagonism that had developed against the Freemasons, because a large number of the men holding public office belonged to that order, the other had a short-lived but stormy career in attempting the elimination of Roman Catholics and foreigners from public life. Many social problems were discussed. Drunkenness was everywhere in evidence; laity and clergy alike were addicted to the overindulgence in strong drink. One temperance movement succeeded another. The Washingtonian and Father Maythew Societies became a power in the social world, and a proposal was made to abolish wine from the communion table. (2) In New England there arose in 1836, a band of scholars and thinkers, calling themselves Transcendentalists (3) whose aspirations were for the ideal in philosophy, theology, sociology and economics. The high priestess of the movement was Margaret Fuller. She was a young woman of broad culture and poetic temperament, whom Horace Greeley describes as, “the most remarkable, and in some respects the greatest woman America has yet known.” Her energy was marvelous. In the autumn of 1839, she began in Boston, a series of conversations exclusively for women. Here she surrounded herself with the most brilliant women of the time,

(2) Frederick W. Seward: *Seward at Washington as Senator and Secretary of State*, New York, 1891.
women whose names, or the names of whose husbands, are better known today, than even seventy-five years ago. Among them were Mrs. George Bancroft, Mrs. Lydia Maria Child, Mrs. Ralph Waldo Emerson, Mrs. Theodore Parker, Miss E. P. Peabody, Mrs. Josiah Quincy and Mrs. George Ripley. In her prospectus Miss Fuller proclaimed the object of her meetings to be: "What were we born to do? and how shall we do it?" The conversations bear the same relation to the woman's movement, that the fight made by the Minute Men of Concord who "fired the shot heard round the world," has to the Revolutionary War.

In 1840 the Transcendentalists began in Boston the publication of a quarterly periodical called the *Dial*, of which Margaret Fuller was editor. In her article, published in 1843, entitled, "The Great Lawsuit," she made such an original and vigorous plea for the political and social equality of women with men, as to attract the attention of thinking men and women, not only in New England, but in the middle states. This essay she expanded the next year into a book called *Woman in the Nineteenth Century*. Her argument is supported by a wealth of facts taken from religion, mythology, history, philosophy, literature and poetry, which none but a person of the widest culture could have produced. In 1845, the book was republished in London (1). In 1855, five years after the author's death, a second edition was published in this country (2) which was reprinted several times that year; and the matter is as fresh and interesting today as it was when the essay appeared in the *Dial*.

Another important factor in awakening interest in woman's rights, was the Anti-Slavery movement. This sectional question had become of absorbing interest. All over the North men and women were declaiming against the iniquity of negro slavery. In New England the Transcendentalists were enlisted in the agitation. In Pennsylvania an intrepid band of Quaker women held public meetings and

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(1) Margaret Fuller: *Woman in the Nineteenth Century*, London, 1845.
(2) Margaret Fuller Ossoli: *Woman in the Nineteenth Century*, Boston, 1855.
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appeared before the state legislature, creating public sentiment against slavery. On June 21, 1840, a great world Anti-Slavery convention was held in London (1) of which Whittier wrote the stirring words:

"Yes, let them gather!—Summon forth
The pledged Philanthropy of Earth,
From every land, whose hills have heard
The bugle blast of Freedom waking."

Delegates were present from the Anti-Slavery societies of all the civilized nations of the earth. Among the American and English delegates were many women. The American women were accustomed to speak and vote in Anti-Slavery meetings, but in the London convention all the women were refused seats as delegates. They were deeply humiliated, particularly the Quakers, among whom the equality of women with men was never questioned. The best known of the women delegates from America was Mrs. Lucretia Mott, the courageous little Quaker from Philadelphia. New York had sent Mrs. Elizabeth Cady Stanton, who was on her wedding journey. The treatment accorded the women delegates caused Mrs. Mott and Mrs. Stanton to set in motion the machinery by means of which the women of the country were years afterward to gain many of their desired ends; and the London convention has become a milestone in the movement for woman's rights.

Mrs. Mott and Mrs. Stanton became the self-appointed leaders in America. They proclaimed the equality of women and men; but they were conservative. The radicalism which for a time assumed that in order to demonstrate their equality, the women must appear as much like the men as possible, and wear a costume consisting of a short skirt over loose Turkish trousers gathered round the ankles called the Bloomer after the woman who was the most conspicuous advocate of its use (2), had not yet developed. The two lead-

(1) Elizabeth Cady Stanton: *Eighty Years and More*, New York, 1898; Anna Davis Hallowell: *James and Lucretia Mott*, Boston, 1884; Elizabeth Cady Stanton and others: *History of Woman Suffrage*, New York, 1881-1887.

ers were in deadly earnest. They may have lacked the scholarship of Margaret Fuller, but they had the benefit of her powerful presentation of the cause, and they had her name to conjure with. Besides they had made investigations of their own. In preparing to enter upon the crusade they had commenced a course of training intended to fit them for promulgating the propaganda of the rights of women. In the progress of their studies they read among other subjects, the common and the civil law. They became impressed with the fact that their sisters in Louisiana, Florida and Mississippi, were enjoying rights which were denied women in New York and Pennsylvania. They were politicians of no mean ability. Although the indefinite sentiments in regard to women's wrongs had crystallized into explicit charges, they realized how impossible it was in the existing state of public opinion, to secure for women a perfect equality with men; and they began to concentrate their powers in an effort to obtain for married women the right to the enjoyment of their separate property. It was not until three months after this object had been attained in New York and Pennsylvania, that in the obscure town of Seneca Falls, New York, they held the convention which took up the general question of woman's rights.

Also for years reflecting men in the Eastern states, judges, lawyers and laymen, had realized the iniquity of the laws relating to the property rights of married women. A feeling in favor of the enactment of laws giving them the control of their separate property became manifest. In May, 1844, the leading magazine of the day, the Democratic Review, published in New York, contained an able exposition of the subject, written by a woman, and approved and adopted by the editor, in which the writer called on the women of the country to awake from their lethargy, and move in the matter, so vital to their sex. (1) To these forces Mrs. Mott, Mrs. Stanton and the other self-sacrificing women whom they had drawn into their train, added their in-

fluence. But the women remained free-lances and fought in their own way, and continued leaders and not followers.

In New York and Pennsylvania, the two most populous states of the republic, the sentiment was stronger than in any of the other states, and here the earliest battles for this reform were fought, and here the first rifts in the clouds of medievalism appeared. In Pennsylvania a combination of circumstances entered into the enactment of the law entitling women to the enjoyment of their separate property. The courts had long recognized the injustice of the law in this respect, and in many instances had saved the estates of married women from the rapacity or culpability of their husbands. The courts required every requisite of the laws relating to the conveyance of lands by married women to be substantially complied with, on failure of which the conveyance was held to be void. In 1820, Judge John Bannister Gibson, of the Supreme Court, afterward chief justice, and conceded to have been the greatest chief justice that the state has yet known, wrote in a case which came before him: (1)

"In no country where the blessings of the common law are felt and acknowledged, are the interests and estates of married women so entirely at the mercy of their husbands, as in Pennsylvania. This * * * * is extenuated by no motive of policy, and is by no means creditable to our jurisprudence."

In the middle of the last century, the two political parties in the United States were the Democratic and Whig parties. The Democratic party was the party of conservatism, as it is now the party of radicalism. It had been in power with few exceptions, for fifty years. The radicalism prevalent in Europe had found its echo in the United States, where one of the forms which it assumed was hypercriticism of the party in power. Also the country was suffering from a severe business depression occasioned, it was said, by the new tariff law enacted in 1846. (2) Consequently at the

(1) Watson vs. Mercer and Another, 6 S. & R., 49.
(2) A. K. McClure: Supra.
fall election of that year the Democratic party was badly defeated in Pennsylvania, the Whigs carrying both branches of the legislature. In 1848 the Whigs again controlled the Senate, but the Democrats had recovered the House, the result of having the previous year renominated Governor Francis Rawn Shunk. The personal popularity of Governor Shunk had not only assured his own re-election, but had carried the House of Representatives for the Democrats. At the time of his first election to the governorship, Mr. Shunk lived in Pittsburgh, where he practiced law. (1) Here also resided Mrs. Jane Grey Swisshelm, then in the height of her vigorous mentality. In the pages of the Daily Commercial Journal of that city, she published a series of piquant letters couched in language that was forceful, sometimes sarcastic, often amusing and always truthful. In these letters (2) she described the distress that was frequently caused by the laws relating to the separate property of married women. In one of her letters she cited as an illustration the case of a husband who, on the death of his wife, to whom he had been married only a short time, had insisted on retaining her personal effects, which had been bequeathed to her sister. In her autobiography (3) Mrs. Swisshelm comments indignantly on the proceeding, and states that this letter "made the cheeks of the men burn with anger and shame." She also contributed occasional letters on the subject to Neal's Gazette of Philadelphia. The letters came under the observation of Governor Shunk, and helped to impress him with the necessity of the reform advocated by Mrs. Swisshelm.

The question had agitated the legislature for a number of years. Governor Shunk was already suffering from the fatal malady, which six months later caused him to resign his office and sink into an untimely grave, when at the legis-

(2) Jane G. Swisshelm: *Daily Commercial Journal*, Pittsburgh, Pennsylvania, October 28, 1847; December 11, 1847; February 10, 1848; February 17, 1848.
relative session of 1848, he incorporated in his annual message a clause strongly recommending the enactment of a law giving married women the right to retain their separate property. He made a manly argument: (1) “The liberal and enlightened spirit of the age has developed and secured the rights of man, and has redeemed woman and elevated her from the degrading position she occupied, and placed her where she always should have been, at the side of her husband, his equal in rank and dignity. Then why should her rights of property still be to a great extent controlled by the contracted enactments of an age when her husband was her lord, and he might chastise her by law, as if she were a servant.”

The legislature that met in 1848 was radical in its composition. Among the members were more men of ability than is ordinarily found in state legislatures. Some had preconceived opinions in favor of changing the laws relating to the property rights of married women, while many were friendly merely because of Governor Shunk’s advocacy of the measure. Others were influenced in this direction by their constituents; still others had been elected solely for the purpose. In Philadelphia Judge John Bouvier whose law dictionary is known among lawyers and law students wherever the English language is spoken, was instrumental in bringing about the candidacy and election of a number of young Quakers, to which sect he belonged, pledged to aid in the enactment of the law. (2)

Numerous bills having in view the revision of these laws, were introduced into the legislature. (3) On January 11th, Thomas S. Fernon, of Philadelphia County, presented a bill in the House of Representatives, and on January 17th, George A. Frick, of Northumberland County, introduced a similar bill. In the Senate William A. Crabb, of the city of Philadelphia, presented a like bill on January 31st. This

(2) Elizabeth Cady Stanton and others: Supra.
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was followed the next day, by the bill of William F. Johnston, of Armstrong County, who later in the session was to be elected president of the Senate, and by virtue of this office, a few months afterward, on the resignation of Governor Shunk, succeeded to the governorship. Mr. Johnston reported his bill from committee on February 3rd.

Lucretia Mott, together with Mary Grew, Sara Pugh, Abby Kimber and Elizabeth Neal, the other Philadelphia Quakers who had attended the London Anti-Slavery Convention, entered actively in the work of obtaining signatures to petitions asking for the passage of the law. Their modest gray costumes also became familiar in the halls of legislation at Harrisburg. Their broader claims might be ridiculed and condemned, but in advocating this law they realized that they would receive thoughtful consideration.

Petitions asking for the passage of the law began to pour into the legislature. The residents of the city and county of Philadelphia sent no less than ten petitions; three petitions were received from the people of the state at large. On March 20th, on motion of Mr. Johnston, his bill was passed finally in the Senate, and was immediately sent to the House for concurrence. The session was already drawing to a close, when on April 8th, the bill came up for action in the House. On motion of James K. Kerr, of Crawford County, practically the entire bill was stricken out and another substituted. Then on motion of Mr. Frick, an additional section was added, and with only slight further changes, which in the main were taken from the Senate bill, it was passed in both houses. The bill was incorporated with a heterogenous collection of unrelated bills, either to insure its passage, or the passage of the other bills to which it was attached. Its enactment appears to have been procured by means, which in polite society were termed log rolling, but which among politicians were called by the more imposing name of omnibus legislation; the spirit of reform in the manner of enacting laws, had not yet affected the Pennsylvania legislature.

The incongruous title of the law was "A supplement to, An Act entitled 'An Act relative to the LeRaysville Phalanx,
passed March 13 Anno Domini one thousand eight hundred and forty-seven,' and relative to obligors and obligees, to secure the rights of married women, in relation to defalcation, and to extend the boundaries of the Borough of Ligonier." The measure was approved by Governor Shunk on April 11th, the day on which the legislature adjourned, (1) which was only five days after a similar law had been enacted in New York. While Lucretia Mott was doing her best to bring about the passage of the law in her state, Elizabeth Cady Stanton was similarly engaged in New York.

The new law was most comprehensive in scope. It continued in the married women the property owned by them at marriage or afterward acquired, as fully as if they were unmarried. Its disposition by will and under the intestate laws was specifically provided for.

The reception of the law promised much, but the full expectations of its partisans were never realized. The early expressions of the Supreme Court indicated a friendly spirit. In 1849, (2) and again in 1850, (3) Judge Molton C. Rogers rendered decisions in which he held, that since the Act of 1848, married women were for all purposes \textit{feme soles} as to their separate estates. That is to say in respect to such estates they had the same rights as if they were unmarried.

Under the early constitutions of the State the judges were appointed by the governor for life. In 1838 a new constitution was adopted (4) which fixed the tenure of the judges at fifteen years, the terms of the incumbents to expire at intervals of three years. In 1850, an amendment to the constitution was adopted (5) by which the judiciary was made elective, and providing for the expiration of the terms of all the judges in the following year. Judge Gibson and Judge Richard Coulter were the only judges of the Supreme Court in office, who were elected in 1851 under this amendment; the other three judges were succeeded by new men.

(1) Act of April 11, 1848, P. L. 536.  
(2) Cummings' Appeal, 11 Pa., 272.  
(3) Goodyear vs. Rumbaugh and wife, 13 Pa., 480.  
(5) Ibid.
The next two years brought further changes. Judge Coulter died on April 20, 1852, and was succeeded by Judge George W. Woodward. The venerable Judge John Bannister Gibson passed away on May 3, 1853, and his successor was Judge John C. Knox.

The judges were all of the dominant Democratic faith, and the Democratic party, as is usually the case with political parties which have had a long lease of power, floated with the tide of public opinion, which had recovered from its short spasm of liberalism, and a year or two after 1848, became strongly reactionary in its tendencies. Reaction indeed was not confined to the United States, but was almost universal. On the continent of Europe the iron heel of despotism was again on the neck of the people. The German National Assembly was dispersed by armed force; the Republic of Hungary lay dead at the feet of Austria and Russia. In France an upstart Napoleon overthrew the republic of which he was president, and made himself emperor. In the United States where the paramount political issue was negro slavery, the reaction appeared as the champion of that institution. The reaction caused the enactment of the odious Fugitive Slave Law which supplied the slaveholders with effective remedies for the recovery of runaway slaves. It brought about the repeal of the Missouri Compromise which had excluded slavery from all of the Louisiana Purchase north of the southern boundary of Missouri, exclusive of that territory. It was responsible for the decision of the Supreme Court in which it was held in the case of Dred Scott, a negro, that Congress had no power to exclude slavery from any of the states and territories. During this period of gloom, the Pennsylvania Married Woman's Property Law of 1848 suffered along with the other liberal ideas which had been developed into distinctive acts, and was rendered all but nugatory by the Supreme Court of the State.

In recent years it has become a custom to criticize the judges of the courts, but it does not become a member of the legal profession to do so, except perhaps when a judge has decided a case against him. At the risk of being con-
sidered heterodox, however, I will say that I believe that at this time the majority of the judges of the Supreme Court like the political party to which they belonged, were imbued with the current reaction. In 1852 the advocates of the law of 1848 received their first shock when the Supreme Court decided that the deed of a married woman not joined in by her husband, was void. (1)

From the beginning Judge Woodward appeared to dominate the bench. At this time he was forty-three years of age, and had long been prominent in politics; (2) he had been a member of the Constitutional Convention which reported the constitution of 1838. From 1841, until the constitutional amendment of 1850 went into effect in December, 1851, he was judge of the Common Pleas Court of the Fourth Judicial District, which comprised the counties of Centre, Clinton and Clearfield. He had been an unsuccessful candidate for the United States Senate against Simen Cameron in 1844, and the next year had been nominated by President Polk for the United States Supreme Bench, but failed of confirmation, owing to Senator Cameron's opposition. He was deeply versed in the law and was only too thoroughly saturated with its traditions. He did not write all the opinions on the law of 1848, handed down by the Supreme Court during his term of office, but in the reasoning of almost all the opinions, where the names of other judges appear, there is a distinct resemblance to the reasoning of the opinions credited to Judge Woodward.

In 1853 he decided that the earnings of married women were not property within the meaning of the Act of April 11, 1848, and held that such earnings belonged to the husband. (3) In the opinion there is an underlying note of defiance. "The legislature has done much to change the legal incidents of the marriage relation," he declared, "but it has not extinguished quite all of the material rights of the hus-

(1) Peck vs. Ward, 18 Pa., 506.
(3) Raybold vs. Raybold, 20 Pa., 308.
band. He is still entitled to the person and labor of the wife, and the benefits of her industry and economy."

In 1854 another member of the majority of the court, Judge Ellis Lewis, in overruling the former decisions of Judge Rogers, delivered a homily on the incapacity of women for the performance of certain duties, which if read today, would cause a smile, from persons other than the women who are laboring so assiduously for greater rights for their sex. "The Act of 11th April, 1848, * * *" (1) he declared, "was intended for their protection, not for their injury, and must receive such a construction as shall promote that object. * * * In her dependent condition, with duties which preclude and habits which unfit her for outdoor business life, to give her these extensive powers would be an injury instead of a benefit to her, and would be altogether at variance with the benevolent purposes of the legislature."

In a decision rendered by Judge Woodward in 1858, the red flag of danger was waved anew; and he kept waving it as long as he continued on the bench, a period of almost ten years. In this opinion all the evils that could be conjured up by a most fertile mind were set forth in detail. The case arose in Perry County, where the Common Pleas Court had decided (2) that a married woman could maintain an action of debt against her husband on a contract made during coverture. The defendant took an appeal to the Supreme Court and the matter reached Judge Woodward. In the opinion overruling the lower Court he took for his text a quotation from the argument of B. F. Junkin, the counsel who argued in favor of sustaining it. Mr. Junkin had said: "We start with the Act of 1848 in a new era; * * * with rights created by the act itself, * * * which turn the old common law doctrines, decisions, fictions, and absurdities, into fossil remains, dead as mummies, and, what is commendable, without mourners."

In reply Judge Woodward declared emphatically: "We have not been in the habit of considering the Act of 1848

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(1) Mahon vs. Gormley, 24 Pa., 80.
(2) Ritter vs. Ritter, 31 Pa., 396.
as inaugurating a new era." Stating that under "the common law, marriage makes the man and woman one person in law, and of course excludes the possibility of a civil suit between them," he reiterated the accusation previously made against the legislature: "It is doubtless competent for the legislative power to change and modify the qualities of the marriage relation, perhaps to abolish it altogether;" and added, "but * * * in just so far as you sever the material interests of husband and wife, you destroy the sympathies which constitute the oneness of the relation, and degrade the divine institution into mere concubinage."

With the skill of a consummate artist he painted a picture of terror. No Dore' or Vereschagin could have depicted with more harrowing details, the dire consequences which Judge Woodward predicted might ensue in Pennsylvania if the Supreme Court construed the law in the manner asked for by Mr. Junkin. "The maddest advocate of woman's rights, and for the abolition of all divine institutions, could wish for no more decisive blow from the courts than this," he declared. "The flames which litigation would kindle on the domestic hearth would consume in an instant the conjugal bond, and bring on a new era indeed—an era of universal discord, of unchastity, of bastardy, of dissoluteness, of violence, cruelty and murders." Continuing in the same vein, he attempted to minimize the injustice which the act of 1848 was intended to remedy by admitting that "occasional instances of hardship occurred." This he stated being "magnified by that prurient philanthropy that begins its work where the wise and good leave off, and demolishes what they built up, led a too susceptible legislature into declaring not only that the wife's property should be exempt from seizure by the husband's creditors, but that it should continue to be her property 'as fully after her marriage as before,' and should be 'owned, used and enjoyed by such married woman as her own separate property.'"

That the evils which the Supreme Court pretended to discover in the law were imaginary, has been amply demonstrated since the decisions were rendered. The people of Pennsylvania have always been conservative, and public sen-
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timent sustained the action of the Supreme Court in these decisions. The preceding legislatures which could have overruled the Supreme Court by new enactments, but failed to do so, only reflected the opinions of the people who elected them. The Civil War, however, convinced the people that many of the views entertained by them were wrong, and they did their best to make reparation for the past errors. But it was nearly a quarter of a century before they had even partially escaped the thraldom in which the Supreme Court had held them on the question of married women’s property rights.

They began by electing members to successive legislatures who believed as they did. In 1887 the Legislature enacted what may be termed a code of laws in favor of the property rights of married women. (1) In 1893, a still more comprehensive law in their favor was passed. (2) Today they possess most of the rights that were originally claimed for them under the act of 1848, and also some additional ones. Judgments obtained against the husband do not bind the wife’s separate property; (3) she can transfer shares in corporations; (4) she is entitled to her separate earnings; (5) she can assign and satisfy mortgages and judgments; (6) she can become a corporator; (7) she can go into business; and she can enter into contracts and give obligations in her business and for necessaries and for the use, enjoyment and improvement of her separate estate; (8) she may make leases of her separate property; she may sue and be sued, (9) but she may not sue her husband except in a proceeding for divorce, or to protect or recover her separate property in cases where he may have deserted or separated himself from her without sufficient cause, or may have neglected or refused to support her; but neither may he sue

(1) Act of June 3, 1887, P. L. 332.
(2) Act of June 8, 1893, P. L. 344.
(3) Act of April 1, 1863, P. L. 212.
(6) Act of May 25, 1878, P. L. 152.
(7) Opinion of Attorney General, 18 Pa. C. C., 492.
(9) Act of June 3, 1887, P. L. 332.
her except on the same conditions on which she may sue him; (1) she may become a competent witness in a proceeding to protect or recover her separate property. (2) And furthermore, she may make conveyances of real estate to her husband. (3) This law recognized at least by implication, that the married woman is a separate and distinct being from her husband as is the case under the civil law. The dawn of that "new era" spoken of by Mr. Junkin, has broken at last; it has even blazed into day, but high noon has not been reached. In this year of enlightenment, one thousand nine hundred and fourteen, a married woman is still powerless to convey real estate, except as already noted, or to mortgage the same, unless she is joined in the conveyance or mortgage by her husband.

In the gigantic war which is now devastating Europe, the rulers of the belligerent powers—except of Republican France—are invoking the assistance of God as they hurl their armies and navies at one another's throat in a death grapple. If I were as devout as these fighting Christians, or as they would have the world believe they are, I would indicate to the married women who are seeking further rights, to pray for Divine assistance, but at the same time I would advise them to follow farther in the footsteps of the warring nations, and have faith in the cynical observation attributed to Napoleon I. that "God is on the side of the heaviest battalions;" and that to succeed they must gather more women into their ranks and engage in a further propaganda of agitation, and work in season and out for the desired ends. Only then will their efforts be crowned with complete success.

(1) Act of June 8, 1893, P. L. 344.
(2) Ibid.