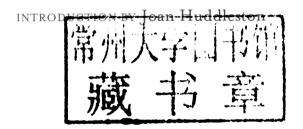


English Laws for Women in the Nineteenth Century





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INTRODUCTION

From time immemorial, changes in the laws of nations have been brought about by individual examples of oppression. Such examples *cannot* be unimportant, for they are, and ever will be, the little hinges on which the great doors of justice are made to turn.

[Caroline Norton, Letter to the Queen]

The cause of women's liberation was no exception to this rule, particularly in the early 19th century before women organized themselves into activist groups. And Caroline Norton's own example is a case in point. Her personal sorrows and the difficulties of her marital situation were the spur to her active campaigning for the improvement of the common lot of married women at that time. She sought initially to improve her own life through changes in the laws that restricted her but the results were to alleviate the problems of many others in similar situations, and the legal reforms she supported and helped to bring about were the beginnings of the massive changes in the legal position of women which snowballed through the later years of the century. However, she did not believe in the principal advocacy of equality, or even in the banding together of women in revolutionary groups. She did not believe in the equality of men and women at all:

The natural position of woman is inferiority to man. Amen! That is a thing of God's appointing, not of man's devising. I believe it sincerely, as part of my religion. I never pretended to the wild and ridiculous doctrine of equality.

[Letter to the Queen]

She sought only to improve the methods by which men could protect women, and to establish legal remedies if this protection should fail. She fought not a generalized rebellion against men (indeed she sought assistance from her male relatives and friends in all her troubles), but she fought the inconsistencies, meannesses and, on occasion, brutalities of her husband, using as her most powerful weapon her literary talents. And so she helped the woman's cause, a feminist malgré lui. She played a large part in bringing about the Infant Custody Bill, caused certain reforms to be added to the Matrimonial Causes Act, and created the climate in which discussions could begin towards the Married Women's Property Acts: all major improvements to the deplorable conditions under which women were non-persons with no legal rights, no legal status, and were classed with slaves and idiots as outside the law and able to take no advantage of it.

Although she was born in 1808, Caroline Sheridan's background, and to an extent her personality, belonged to the 18th century. She inherited from her playwright grandfather, Richard Brinsley Sheridan, her wit and charm, and was always a striking figure. Her rash and impulsive actions brought her a reputation for notoriety that clung even when her marital wrongs should have brought her sympathy. She would have attracted a good deal more sympathy if she had submissively accepted her sad fortune or allowed her male relatives to seek on her behalf to rectify the situation, whether it was a matter of gaining access to her children or winning financial support from her estranged husband. Instead she chose to enter the public arena herself.

Her father was Thomas Sheridan, only son of the playwright and his first wife Elizabeth Lynley. Born into the exciting period of his father's social and artistic success, he grew up educated to no career, with no financial independence. He eloped with Henrietta Callander against the wishes of her well-born Scottish family who disapproved of his charm, his lack of money, his connection with the theatre and his father's links with the Prince Regent and the fast-living Whig set which gathered at Holland House. But theirs was a happy marriage and they became a close and united family in

spite of the slow decline of the family fortunes. The three daughters Helen, Caroline and Georgiana, in particular remained mutually devoted friends throughout their lives. Thomas Sheridan's early death in 1816, of consumption, inherited from his mother's family, left his widow with seven small children to maintain. But strangely enough his death brought them greater comfort and security: his father's artistic fame persuaded his political patrons to find the widow and her large family a free 'grace and favour' apartment at Hampton Court where they settled in reasonable peace and contentment.

All but Caroline, that is, whose literary bent and tempestuous character marked her out from the others: it was decided she needed the discipline of boarding school. It was here, in Surrey, that she met her future husband, George Norton.

He was the younger brother and heir of Lord Grantley of Wonersh, a landowner of some means, though George himself had little money of his own, and few talents. He was wildly attracted to young Caroline and declared that he wished to marry her. She was removed from his society because of her youth and brought back to London.

At 17 she was launched into her first season, the marriage market of London society. But although she was recognised as a noted beauty, she received no offers of marriage that year. Her good looks could not compensate for a lack of dowry, and for the taint of theatricality associated with her family. There was no other possibility for a girl than marriage and motherhood. There were honourable exceptions, of course, like Harriet Martineau; but Caroline never saw herself as remaining single and independent, nor thought that she might support herself as a writer. Her elder sister Helen married without love but was happy in the married state.

Thus, when George Norton renewed his proposal, she had little alternative but to accept. She did not love him—indeed she scarcely knew him—but he was presentable. Apart from anything else, she knew she must cease to be a financial burden on the family before her sister Georgiana was launched into her first season the following year.

So in July, 1826, they married, when Caroline was 19 and

George 26. Caroline could enter fully into social life, acquire a circle of friends and visitors, and even indulge in discreet friendships with the opposite sex. Unfortunately the temperamental differences between her and her husband were to deny her much of the comfort and pleasure this prospect afforded. Their political differences too were to cause dissension, particularly as London debated the broadening of the franchise that was to culminate in the Great Reform Bill of 1832. The debate split families and friends, dividing society into violently opposed camps. Caroline's Whiggish support for the Bill and George's Tory opposition to it added much bitterness to their already divided household. But the more basic problems were personal. George always remained physically attracted to her, and she always wanted to love and respect him as the father of her children, but her fiery temper and his stolid sullenness, her verbal defiance and his physical violence made their life together almost unbearable.

Caroline cannot be regarded as blameless; she found it difficult to accept any discipline, let alone the conventions which gave George unlimited powers over her while allowing nothing for her strength of spirit and superior abilities. Things were made worse by the support George received from his relatives, in particular Lord Grantley, and a Miss Vaughan from whom George hoped to inherit. They encouraged him in his petty cruelties. Caroline's family, too, rushed into the fray. It was probably inevitable that the witty and engaging Sheridans would join in despising the dull conservatism of the Nortons, but it did nothing to help the couple sort out their life together.

It is by no means clear, however, whether anything at all could have helped to improve the situation. Even if George had had an occupation appropriate to his interests, if he had retained his seat in Parliament or inherited his brother's estate, instead of having to depend on a political job secured for him by Caroline; even if their money situation had been significantly better than it was, there were still factors which would have divided them. Her lack of a dowry would always be a sore spot in their relationship; as were the higher social standing of the Sheridan ladies. With Georgiana marrying

Lord Seymour, the heir to the Duke of Somerset, and with their friendship with Court ladies (Caroline dedicated her *The Undying One* in 1830 to the Duchess of Clarence who became Queen Adelaide that same year) George was made to feel that he was lower in rank and social respect than his wife.

At all events, by 1835 the Nortons with their three sons were a very unhappy family, short of affection for each other, short of money but with an excess of outside interference and even manipulation. George had been elected to Parliament in 1826 and might legitimately have expected his wife to use her social skills on behalf of his Tory party, but, on the contrary, she openly defied her husband by actively working for the Whigs in support of the Reform Bill.

In 1830 Parliament was dissolved on the death of George IV and in the ensuing election George lost his seat and his income. Caroline's literary career brought in a steady income but not enough to cover all the expenses of a growing family and a hectic round of social engagements. She rallied to George's support and contacted her political friends to try to persuade them to find employment for him. Among those who responded to her appeals was Lord Melbourne.

William Lamb, Lord Melbourne, as Home Secretary, had control over a great deal of political patronage and found a position for George as magistrate in one of the police courts. One result of this appointment was a closer friendship between Caroline and Melbourne, which was later to prove harmful to them both, but in particular to her. Melbourne became a frequent visitor at Caroline's home in Storey's Gate, just across St. James's Park from his office in Downing Street, and from Buckingham Palace. His wife, Lady Caroline Lamb, had soon after their marriage devoted herself ostentatiously to Lord Byron, and she became notorious for her escapades. Her husband received society's sympathy and remained touchingly loyal to her, forgiving her eccentric behaviour on many occasions, and when her personality became more and more erratic, received her back into his home and supported her till her death in 1828. In the same year he became Lord Melbourne on the death of his father. He had entered politics only in 1827 and was soon a popular and accepted leader of political society, even surviving an accusation of adultery over his affair with Lady Brandon. Indeed it was well known that other ladies had received his attentions, though in many cases this amounted to no more than a desire for their sympathetic company.

When Caroline Norton joined his circle of women friends she was joining a group that was, seven years later, to include the young Oueen Victoria herself. With the seventeen-yearold Oueen. Melbourne began the most delicate and enduring of friendships which lasted till his death in 1848. There was nothing scandalous about that relationship, which clearly resembled that of uncle and niece, and there may have been nothing scandalous about his friendship with Caroline; but her impulsive nature, George's dangerous and ill-conditioned character, and the difficulties of the Nortons' marital situation should have led Melbourne to be more careful about involving her and himself in a social situation of a potentially explosive nature. But they did get involved with each other. He found her a warm-hearted and engaging companion, and she found him a wonderful antidote to George. She could respect and admire him, they were temperamentally suited, and she accepted him as a guide and counsellor as Queen Victoria was to do later.

George Norton seems to have accepted this friendship readily enough, possibly even encouraged it at first. As he owed the major part of his income to Melbourne he was not really in a position to do otherwise. But he was influenced by his relatives and their political allies to see it as a serious threat to his marital status. In March 1836, the Nortons had a quarrel about the children's visit to their uncle Brinsley. George had not been invited because the Sheridans could not forgive his brutal behaviour. Urged on by Miss Vaughan, George denied the boys their visit. Early next morning Caroline visited her sister to seek advice. While she was out of the house George bundled the children off to an unnamed destination. Caroline had them traced to Miss Vaughan's house where she herself went to seek them. She was denied access to them and received instead a barrage of abuse which was probably the accumulation of years of ill-feeling. She determined never to return to her husband's house and this time she did not retract her decision.

George responded first by declaring in the public press that he would no longer be liable for her debts—a most unnecessary and meaningless insult—and secondly by initiating divorce proceedings. In those days this was done by instituting a civil case for damages against a wife's lover for alienating her affections. Such cases were popularly known as "crim. cons." since they sought to prove that a man had had criminal conversations with another's wife, i.e. had committed adultery with her. George stunned London by naming Melbourne, who was then Prime Minister, as the guilty party, and thus ensured maximum notoriety for the case, and the greatest political disturbance possible. If Melbourne were to be found guilty he could be forced to resign and in a period of political instability this could bring the government down, to the delight of George's Tory friends.

Though many efforts were made to prevent it, the trial began on 22nd June, 1836. Caroline herself was not present and indeed she was not legally entitled to take part in it; she could neither defend herself nor have counsel to defend her. After all the fuss and sordid publicity, the jury found Melbourne innocent, without even withdrawing to consider their verdict. It was generally felt that the whole shabby affair was a plot created by political animus rather than a genuine feeling of outraged morality on the part of George Norton.

Although Melbourne emerged unscathed from the debacle, Caroline Norton was to face both short term and long term consequences that affected her life almost to its end. The failure of George's case meant that he could not divorce her because of insufficient grounds. Caroline could not divorce him because her return to him late in 1835 after a short separation had seemed to condone his brutality and possibly his infidelities. As so often in her life, her generously forgiving nature was her downfall.

So with divorce impossible all they could do was separate, and for this they had to agree terms. There were serious difficulties before those terms coud be established. Firstly, they were always dependent on the goodwill and integrity of

both parties, and George had already proved himself to be extremely wayward, unreliable, and mean. Caroline had left all her possessions—clothes, books, jewellery—at Storey's Gate. But no approaches by herself or her brother could persuade George to return any of them to her. Secondly, these terms were not legally binding inasmuch as no legal contract could be entered into by a wife with her husband. Thirdly, the power to dictate the terms was the husband's right, even where the wife was the wronged party. Fourthly, the ecclesiastical court, the only divorce granting body, disapproved such a settlement. Therefore, the existence of such a settlement precluded the possibility of any future divorce.

In the end Caroline got an allowance of £300 a year but was still refused access to the children. Her literary career at this time was in the doldrums. She no longer edited La Belle Assemblée and The English Annual though she did publish A Voice from the Factories in November, 1836 in an effort to make money. Had it not been for the support of her brother and uncle she would have suffered financially, As it was, there is no doubt that throughout the four years that followed the trial she did suffer emotionally, deprived of any sight or knowledge of her sons, with the eldest in delicate health and the youngest only three years old. It was their loss that led her to campaign to change the laws which could allow such a barbaric situation.

She began by writing a pamphlet on the Infant Custody situation, and when she could not get her usual publisher, John Murray, to accept it, she had it printed privately at her own expense. In Separation of Mother and Child by the Law of Custody of Infants Considered she emphasized the iniquities of the current situation by which children born to married women became the property of their fathers from the moment of birth. It seemed anomalous that the mothers of illegitimate children could not be forbidden access to them while even "respectable" deserted wives might be forced to give up their children to their husbands' mistresses and never see them again. Caroline did not produce a fiery personal document on this occasion but a rational discussion of the existing state of affairs and the distress it caused. She met

with family opposition when she told them what she planned; they felt she should stay out of the public eye till all gossip about the trial died away. But she was determined to go ahead, and even distributed the pamphlet herself, circularising her friends in both Houses of Parliament. She lobbied all her political acquaintances, and faced the reactionary opposition she received with a quiet discretion that was unusual in her.

Through her friends, she met Sergeant Talfourd MP who had been junior defense counsel in the Melbourne Trial. In April 1837 he introduced an Infant Custody Bill but it met with various delays and then in mid-session Talfourd announced that he was postponing the measure till the next session because of its delicacy and importance. Some critics felt that the postponement was due to a temporary lull in the wrangling between the Nortons during which Caroline thought she might get to see her sons on a regular basis and that it was at her urging that Talfourd halted the Bill. Caroline denied in print that this was true.

Through 1837 and early 1838 she continued to seek the support of those of her friends who had political influence: the Bill needed all the support it could get. The most extraordinary arguments were raised against it—that the wives likely to want to use the Bill's provisions, that is, wives in conflict with their husbands, were the unchaste ones, and should therefore be denied maternal rights; and that the Bill would encourage wives to become licentious if the sanctions of the present system were withdrawn: this would constitute a danger to the fabric of society. Some opponents of the Bill went so far as to couple Caroline's name with Talfourd's in an offensive way, and here again Caroline found that her legal non-status prevented her from suing for libel. Ironically, only George could legally have sued on her behalf. In spite of all these arguments, the Bill passed the Commons in 1838; but it was rejected in the House of Lords and this meant that the whole process had to be begun again.

Undaunted, Caroline continued the fight, this time writing a *Plain Letter to the Lord Chancellor* under the pseudonym Pearse Stevenson, in the hopes that the absence of her name

would allow rational argument to proceed.

In the following summer, 1839, the Bill became law and gave married mothers limited rights to their infant children, i.e. children under 7 years of age. The mothers had to prove themselves of spotless character, and had to petition the Lord Chancellor for a hearing before a special court which could grant what access it chose. It was a significant improvement though by no means perfect, and it was owed in large part to Caroline's steady work on its behalf.

Once the Bill was passed she immediately set about trying to get access to her own children, and made it clear to George and his lawyers that she would not hesitate to use material damaging to him if necessary. In the face of this George allowed the case to be settled out of court and grudgingly allowed her to see her boys in what she called "the most formal and comfortless manner." In 1842 her youngest son died in a riding accident. This tragedy brought the parents closer than they had been for years and George agreed to let her have the two remaining boys for six months of each year, provided she supported them financially. So after six years of separation she was able to have her two boys under her own roof again.

Caroline was now 34 years old, and for a brief period she had a measure of calm. She was restored to social favor, had been received at court by Queen Victoria in 1840; she was publishing successfully, in particular A Child of the Islands (1845), and doing some editing. She kept up with political writing too, publishing her Letters to the Mob during the Chartist activity in 1848. She kept a literary salon, having returned to Lord Melbourne's friendship after he lost office in 1841, and even though there were several deaths in the Sheridan family and she had the perpetual worry of her eldest son's poor health, she recognised that it was on the whole a restful period in her life.

Peace ended however when in 1848 George sought to get her consent to allow him to raise money on her marriage settlement. Under English law as it then stood, all the property of a girl became her husband's on the day she married, unless her father created a settlement on her by which the husband was excluded from the use or enjoyment of her property unless she signed it over to him before witnesses. By 1848 George was in debt and needed the money badly. He used his eldest son as pleader on his behalf. Caroline could not bear to think of her son being used in this way, so she agreed immediately to his demands. It was characteristically imprudent of her to trust George in money matters, but she agreed to a legal deed which gave him power to raise money on her settlement in return for an increase in the allowance he made her. She should have known that no deed between husband and wife was legally valid; she was in effect dependent upon George's sense of honor to ensure that he carried out his part of the bargain. The ensuing story of financial and emotional entanglements is best left to her own account in the *Defense* itself.

On 18 August 1853 as a test case she allowed one of her creditors to sue her husband for payment of her debts. What happened in that trial and after it she herself tells us. In this document she supplies us with a vivid and moving account of a personal drama which powerfully illuminates the legal and other difficulties with which women of her class and period had to contend. Certainly hers is an individual case caused at least partly by the temperamental clash of the Nortons, but it brought to public notice in detailed form the appalling injustices that wives might suffer. It marked the start of the discussions that were to result in the Married Women's Property Acts of 1870, 1882, and 1893. It gave inspiration to many women who began to form themselves into activist groups to work for legal reform. One such woman was Barbara Leigh-Smith, later Mme Bodichon, who published in 1854 "A Brief Summary in Plain Language of the most important laws of England concerning women" which had far reaching effects at a time when law reform was in the air.

The last of Caroline's major endeavours in the field of women's rights was in 1855 when she published A Letter to the Queen on Lord Cranworth's Marriage and Divorce Bill. The divorce laws came under legal scrutiny at this time and were the cause of a good deal of heated discussion. Caroline's

pamphlet was an important element in that discussion; it is one of her most powerfully written pieces. When the Matrimonial Causes Act of 1857 was passed, several of its clauses seemed to be the result of Caroline's contribution. Women henceforth as separated wives were protected in the possession of their earnings; they received maintenance as directed by the Court and no longer at their husband's whim; they were allowed as wives whether separated or not to inherit and bequeath property like single women; and as separated wives they gained the power of contract and could sue or be sued like single women. Here too we are in Caroline Norton's debt.

The rest of her life may be briefly told. She continued to bicker with George over money matters; she had to work hard at her literary career to support her grown-up sons. In 1859 the eldest boy, Fletcher, died of consumption and the shock told heavily upon her. George died in 1875 and this too shocked and distressed her, but in 1877 she married an old friend, Sir William Stirling-Maxwell. She died three months later on 15 June 1877.

It seems wrong to end an account of Caroline Norton with her old age and death. A more appropriate ending is surely the one she herself wrote in her 1855 *Letter to the Queen*:

My husband has taught me, by subpænaing my publishers to account for my earnings, that my gift of writing was not meant for the purposes to which I have hitherto applied it. It was not intended that I should 'strive for peace and ensue it' through a life of much occasional bitterness and many unjust trials, nor that I should prove my literary ability by publishing melodies and songs for young girls and women to sing in happier homes than mine, or poetry and prose for them to read in leisure hours, or even please myself by better and more serious attempts to advocate the rights of the people or the education and interests of the poor. He has made me dream that it was meant for a higher and stronger purpose, that gift which came not from man, but from God! It was meant to enable me to rouse the hearts of others to examine into all the gross injustice of these laws, to ask the nation of gallant gentlemen whose countrywoman I am, for once to

hear a woman's pleading on the subject. Not because I deserve more at their hands than other women. Well I know, on the contrary, how many hundreds, infinitely better than I—more pious, more patient, and less rash under injury—have watered their bread with tears! My plea to attention is that in pleading for myself I am able to plead for all these others. Not that my sufferings for my deserts are greater than theirs, but that I combine, with the fact of having suffered wrong, the power to comment on and explain the cause of that wrong. which few women are able to do. For this I believe God gave me the power of writing. To this I devote that power. I abjure all other writing till I see these laws altered. I care not what ridicule or abuse may be the result of that declaration. They who cannot bear ridicule and abuse are unfit and unable to advance any cause; and once more I deny that this is my personal cause—it is the cause of all the women of England. If I could be justified and happy to-morrow, I would still strive and labour in it; and if I were to die to-morrow, it would still be a satisfaction to me that I had so striven. Meanwhile my husband has a legal lien on the copyright of my works. Let him claim the copyright of this!

> Joan Huddleston University of Queensland Australia May 1, 1982