

resulted in the patchwork legislation with which we are only too familiar.

The common law on this point whatever may be thought of its ethical justice, was at least consistent. Under it marriage had the effect of vesting all the wife's chattel property, and also considerable rights in her real property in her husband. That being the case, during coverture the husband was in effect liable for the wife's torts committed by her before or after marriage. It is perhaps not technically correct to say that he was "liable," in the same sense as a wrong doer, but at all events he was a necessary party to an action against the wife for a tort whether committed before or after marriage. If judgment went against her, it went against him also; and was leviable out of his goods, and yet if he died pending the suit it did not abate, but might be continued against the surviving wife. On the other hand if the wife died, the action abated and the husband ceased to be liable.

But the statute law has been from time to time enroaching on and taking away the foundation of the common law rule by depriving the husband of his common law rights in both his wife's real and personal property, but at the same time has left him burdened with some of the obligations which the common law imposed as a consequence of the rights which it conferred. One can hardly suppose if the amendment of the law had been undertaken in a scientific manner that this anomaly would have been suffered to exist. It is because of the want of the scientific method in making amendments in the law, that not only in this, but in other important particulars, (notably in respect of the devolution of estates in case of intestacy), that we find the law is thrown into confusion or into an anomalous condition by our legislators.

The course of amendment is generally as follows:—It strikes someone, for instance, that it is unreasonable that marriage should have the effect of vesting all of a wife's property in her husband; accordingly an act is duly drawn to amend the common law in this respect, but the legislator altogether neglects to take a comprehensive view of the subject by taking both the husband's rights on the one hand and his liabilities on the other into consideration, but fatuously, as we think, takes altogether one-sided view of the matter, and while he cuts off the husband's rights, he leaves his liabilities, which were the consequence of these rights, untouched.