

married into the family or were admitted by agnation, that is, adoption. We can scarcely conceive that this extraordinary and inordinate power of the father could exist for any great length of time in a civilized community. Its tyranny over the person and property was such that the State must early have revolted against it. When history first gives us any information regarding the "power of the father," "the parent has over his children the power of life and death, of uncontrolled corporal chastisement; he can modify the personal condition at pleasure; he can give a wife to his son; he can give his daughter in marriage; he can divorce his children of either sex; he can transfer them to another family by adoption; and he can sell them." This rule evidently belongs to the time of patriarchal government. It is not definitely known at what time the power of the father began to decline; nor has the history of that decline ever been fully traced. But it is certain that about the beginning of the Christian era the *Patria Potestas* was becoming exceedingly unpopular, and the establishment of the Empire completed its destruction.

It is worthy of notice that, while ancient law made woman subordinate to her blood relations, modern jurisprudence has subordinated her to her husband. The history of the change begins far back in the annals of Rome. The ancient law of Rome recognized three distinctive modes of contracting marriage. The first was a religious marriage, known as *Confarreatio*; the second and third modes were both *civil* marriages; but one styled Coemption was considered of higher rank than the other, which was denominated *Usus*. By each of those marriages the husband acquired a number of rights over the property and person of his wife, which, on the whole, exceed the privileges conferred by any modern system of jurisprudence upon the husband, as against his wife. But the husband acquired those rights, not in virtue of his capacity as a *husband*, but as the *father* of his *wife*. Thus were there fictions in Roman law long before they had an existence in the laws of England. By the *Confarreatio*, Coemption and *Usus* the woman became, *in law*, the *daughter* of her husband. The wife became part of the *Patria Potestas* of her husband, the husband became the absolute owner of his wife's property. All the liabilities springing out of the *Patria Potestas* were incurred by the wife, not only during the life of her husband, but even after his death, should she survive him. There was also a fourth form of marriage, which may be described as a modification of the *Usus* marriage. This marriage amounted, *in law*, to little more than a temporary deposit of the woman by her