

herself liable if she tries; she is a married woman, and is supposed to be so much under the domination of her husband that she cannot, in her own interest, be permitted the right to contract. If she had the power to do so she would be speedily ruined and despoiled. At the same time she can do as she likes with her separate property, and that with the greatest facility. Her powers are far larger in this respect than those with which the law has thought proper to entrust her husband. He, poor soul, is hedged all round from frauds and perjuries with the Statute of Frauds. No one shall say that his property is mortgaged unless the assertion can be proved by his signature or at least by production from deposit of his title deeds. A married woman, on the contrary, can effectually charge her whole estate by signing a promissory note or ordering a new dress. The property, then, which is already subject to the husband's debts, obligations and control, which is not separate estate, cannot be made liable for a married woman's contracts; but her separate estate, that which is free from her husband's control, which should be protected if there is to be any protection, can be mortgaged by word of mouth and without her knowing what she is doing.

Learning, and not common sense, must supply the justification of this conclusion. It may be that a married woman, having been unable to bind herself at law, must have been held to have intended to charge her separate estate when she signed a note, and that the contract having been partially executed by the loan of the money equity enforced the charge. Payment of money, however, never was such a part performance as removed a contract relating to land out of the Statute of Frauds, and, if it were, why should a married woman have been permitted to divest herself so easily of her property while the law assumed her to be so specially weak and imprudent.

The solution is, as usual, historical, and the history being as yet, in Ontario, incomplete, the position there is unsatisfactory and illogical. At law a married woman was a part of her husband and her property became to a large extent