

THE MARRIAGE LAWS.

wife acquires during coverture as gift, legacy, or succession, is joined to the dowry. The husband is the responsible usufructuary of of the dowry. He has the administration of all personal property, but he has to give legal security for its value. Neither the husband, nor wife, nor the two acting together, can charge or mortgage the real estate forming part of the dowry, unless by authorization of a tribunal, and jointly. The husband is bound to supply the deficiency created thereby in the dowry as soon as he is able to do so.

The new Italian Code differs essentially from that of France on this subject. It has established two *régimes*, the dotal and that of the community. They are both conventional, and there does not exist any legal *régime*. In the silence of the parties, the law does not assume the adoption of either. If there is no special contract of marriage, or if the contract does not adopt either the dotal *régime* or that of the community, the property of the wife is governed by the paraphernal rule, which is identical with the French, except that the law declares that the parties shall contribute to the household charges in proportion to their respective fortunes, while in the French law the woman contributes one-third.

The Common Law of Germany, as well as the Codes of Prussia and of Saxony, fully recognises the free right of the parties to make what contracts of marriage they please, with the same restrictions as those imposed by the French Code, of not interfering with the State policy, and these nuptial contracts may be made as well during the marriage as before. The parties may, by their contract, dispose reciprocally in favor of each other of any portion of their successions, saving the reserved rights of heirs, and these dispositions are irrevocable. They may, contrary to what the French Code permits, declare their marriage to be according to any of the local laws, customs, or statutes. The dotal *régime* has prevailed in the greater part of Germany, and is that of the Austrian Code, as it is also of the Bavarian. But the principle of community is the law in a great part of what constitutes the Prussian States.

The legal community varies in the different countries where the law of the community prevails. It is universal and comprehends all the property, real and personal, in many of the States. All the laws accord to the widow, as long as she does not marry, certain rights in the property of her husband, either for her life or in full property. The wife may alienate her real estate without the special consent of her husband, unless the local law subjects her to marital authority. The dotal character of the property belonging to the wife is not presumed. The husband must prove that the dotal property is not paraphernal. If the *dote* is in danger, the wife may claim against third parties the restitution. The wife or her heirs have a general mortgage upon the property of the husband for the restoration of the dower,

and they have a legal mortgage upon the property of the husband for the restoration of the paraphernal property.

In Prussia, by marriage the administration of the property of the wife is confided to the husband, except so far as it is reserved to her by the law or by matrimonial conventions. What property each party contributes towards the expenses of the establishment is under the administration of the husband, but in the property reserved to the wife is included everything that relates to her personal use, the nuptial gift (*morgengabe*) and whatever is embraced therein, and she has the administration, usufruct, and free disposition of her reserved fortune. The savings made by a married woman from her reserved fortune belong to her. The immovables and capital inscribed in her name, and which she has acquired from an industry separate from that of her husband, form a part of the general contribution (*apport*), unless she carries on a commerce exclusively with her reserved means, and there is a stipulation to the contrary. The authorisation of the husband for her to sue in a court of justice, when the matter relates to her reserved fortune, is unnecessary. The husband exercises all the rights and duties of a life owner over the property of the wife not reserved, but he cannot alienate it or charge it, nor dispose of the capital inscribed in her name, without the consent of the wife. But there are cases—as those of indispensable repairs—where the tribunals will interpose if the wife refuses. The husband has the disposal of the personal property set apart for the maintenance of the family, but he cannot dispose of the reserved personal property. The wife cannot take away from the husband the administration of her portion of the property set apart for the common support, unless she provides for his support and that of the children in a manner conformable to their condition. When the debts of the wife were made before marriage, her creditors can pursue their claims against her person and all her property, but if these debts have been concealed from the husband, and reduce the contribution for the common support, he may have recourse to her reserved fortune. Community of goods does not exist among the parties, except when established by provincial law. The parties may at all times make mutual contracts of inheritance respecting their successions, and revoke them, but the wife must in this case be assisted by counsel. The dower consists of a pension allowed to the wife by the husband for her support during her widowhood. The wife has a right to the personal property belonging to the household establishment, which includes her outfit entire, the furniture for ordinary use, provisions, &c. The half of the hereditary portion, fixed by the law, to the surviving husband or wife, is regarded in the same light as the shares of the heirs, &c., and subjected to the same rules. Before the division of the property of the hus-