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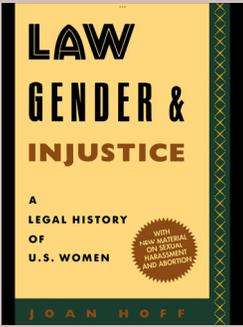
What About the Women?

- Women exist in records, but often overlooked
- Usually appear in relationship to men in their lives
- Limited in what they could own
- Guardianship not a given of minor children at death of husband
- Citizenship until 1922 often based on their husband

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Resource

- By Joan Hoff
- In depth examination of the legal history of U.S. women
- Chapters examine law and women chronologically



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A Woman Before Her Time



- In 1783, she was not permitted to possess cash or other personal property
- She owned a mercantile
- She encouraged her husband to “remember the ladies” when forming the new government

6

Legal Terms

7

Feme Covert

- By marriage, the husband and wife are one person in law: that is, the very being or legal existence of the woman is suspended during the marriage, or at least incorporated and consolidated into that of the husband: under whose wing, protection, and cover, she performs everything....
 - William Blackstone
 - *Commentaries on the Laws of England*

8

Coverture

- The legal status of a married woman, considered under her husband's protection and authority
- Coverture gave all the power to the husband

9

Feme Sole

- A single woman functioned on a legal par with men in property rights
- Separate Estate—by inheritance, dower, marriage contract

10

Dower

- The provision which the law makes for a widow out of the lands or tenements of her husband for her support and the nurture of her children.
• Black's Law Dictionary

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The Husband

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The Husband

- Once married, the husband owned and controlled most of what the wife may have had
- Likewise, he was responsible for her and any debts she had
- In the 17th and 18th centuries she could not purchase things like stocks or land on her own, separate from her husband

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Querits, and fold by B. Franklin. Price eight Pence.

WHEREAS Mary, Wife of Charles Robinson, of New-Castle County, hath eloped from her said husband and perfits in it: These are to forwarn all persons not to credit or deal with the said Mary on her husband's account, for he will not pay any debts contracted by her after the date hereof. And likewise these are to forwarn any persons buying any thing of the said Mary belonging to her said husband, which she has now in possession and clandestinely conceals.

June 4. 1741. Charles Robinson.

JUST IMPORTED.

Elopement

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Probate Records

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Probate Records

- Inheritance
- Dower from husband
- Guardianship

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Inheritance

- Women often were entitled to their inheritance only until their death
- Colonial women with enough property to probate not more than 10% of all probate before 1774

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Obadiah Ayer, 1778, Will

18

Guardianships

- Appointed for minors
- A father may be appointed guardian if his children inherit from his deceased wife's family
- Mothers were appointed, but it wasn't a given

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The Condition of this Obligation is such, That if the
 above-bounded *John Ayres* Nominated and Allowed to be
 Guardian unto *John Ayres* a Minor *about 15*
years son of *Edward Ayres* ~~deceased~~
 late of *Northampton* in the County of *Suffolk* ~~deceased~~ Deceased, shall
 and do well and truly perform and discharge the Trust and Office of Guardian
 unto the said Minor, and that in and by all Things according to Law; And
 shall render a plain and true Account of *his* said Guardianship upon Oath,
 and all and singular such Estate as shall come to *his* Hands and Possession by
 Virtue thereof, and of the Profits and Improvements of the same, so far as the Law
 will charge *him* therewith (when *he* shall be thereunto lawfully
 required) and shall pay and deliver what and so much of the said Estate as shall be
 found remaining upon *his* Account, (the same being first Examined and
 Allowed of by the Judge or Judges, for the time being, of the Probate of Wills, &c.
 within the County of *Suffolk* ~~deceased~~ *deceased* unto the said Minor when *he*
 shall arrive at full Age; or otherwise as the said Judge or Judges by his or their
 Decree or Sentence pursuant to Law shall Limit and Appoint: Then this Obligation
 to be Void, otherwise to remain in full Force.

Signed, Stated and Delivered

John Ayres, Guardianship, 1748

23

Land Records

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**Married Women's
Property Act of 1848**

- Passed by the Senate and Assembly of the State of New York, 7 April 1848
- Established protection for any real or personal property she owned at time of marriage
- Allowed her to receive by gift, grant, devise, or bequest from someone other than her husband as if she were a single female

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QUESTIONS?

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**Naturalization in the
19th Century**

33

Naturalization Act Wording

Act	Naturalization Act of 1802	Naturalization Act of 1804	Naturalization Act of 1855
Notice time	2 years	2 years	2 years
Residence period	5 years	5 years	5 years
Wording	"free white persons"	"the widow and children"	

Notice time was time between declaration of intent and petition for naturalization

34

Naturalization Act - 1804

- Passed March 26, 1804
- First naturalization act to address women and children
- Pertained to their naturalization status if their husband and father died before completing the process

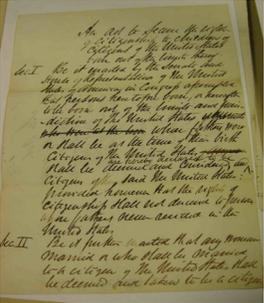
35

Naturalization Act - 1804

- "...when any alien [man]..." completed the declaration of intent, and then died before completing the naturalization process
- The widow and children could take the oath of allegiance and become citizens
- As such, researchers might find the woman's oath, but no earlier paperwork.

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Naturalization Act of 1855



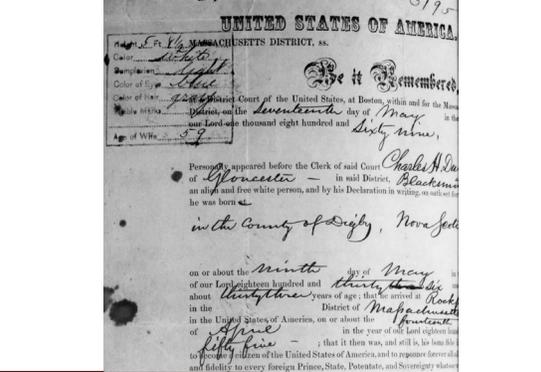
- Automatically granted citizenship to a woman who married a U.S. citizen.
- Her name though will not appear on the naturalization documents

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Women and Naturalization

- Beginning in 1855 alien women became citizens when they married an American citizen
- They also became citizens when their alien husband naturalized
- Probably the most influential naturalization act for women
- Would be no paper trail of naturalization for her

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UNITED STATES OF AMERICA.

MASSACHUSETTS DISTRICT, ss.

We it Remembered,

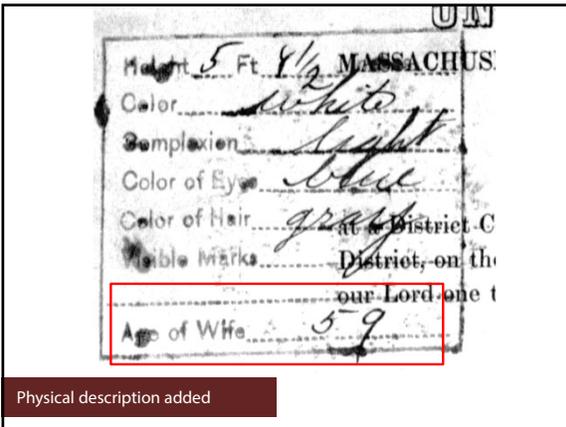
That *Charles A. Deane* Clerk of the said Court of the United States, at Boston, within and for the Massachusetts District, on the *twentieth* day of *May* in the year of our Lord one thousand eight hundred and *sixty nine*,
 Age of Wife *37*

Person *Charles A. Deane* appeared before the Clerk of said Court in said District, *Blackman* an adult and free white person, and by his Declaration in writing, as follows for
in the County of Dugby, Nova Scotia

on or about the *twelfth* day of *May* in the year of our Lord one thousand eight hundred and *sixty three* years of age, that he acted as *Resident* in the District of *Massachusetts* in the United States of America, on or about the *twentieth* day of *May* in the year of our Lord one thousand eight hundred and *sixty nine*; that it then was, and still is, his desire to become a citizen of the United States of America, and to acquire favor and aid and fidelity to every foreign Prince, State, Potentate, and Sovereign power

Declaration of Intent

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Changes to Act of 1855

- A modification to the 1855 Act in 1860 caused confusion regarding female citizenship
- The 1860 modification referred to women who **left** the U.S. to reside with their unnaturalized husband in a foreign residence
- This residency negated her U.S. citizenship
- However, many courts assumed it applied to any woman married to a non-citizen

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Marital Status & Citizenship

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Marital Status & Citizenship

- From 1866-1907, there is much confusion in regard to the citizenship of an American born woman who marries an alien
- Courts also assumed that if the husband had not naturalized that the alien wife **could not** naturalize
- Only if her alien husband did not qualify for naturalization was she legally forbidden from naturalizing herself

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Expatriation Act

- Became official March 2, 1907
- Established that “any American woman who marries a foreigner shall take the nationality of her husband”
- She could regain American citizenship if her husband naturalized OR if she elected to go through the naturalization process herself—assuming her husband was a qualifying alien

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Cable Act

- Enacted September 22, 1922
- Also known as the Married Women's Citizenship Act or the Married Women's Independent Nationality Act



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Cable Act

- Severed the marriage bond in respect to naturalization
- Any immigrant woman marrying a U.S. citizen after September 22, 1922 did not automatically become a U.S. citizen
- Any immigrant woman whose alien husband naturalized after this date did not become a citizen with him
- U.S. women no longer lost citizenship at marriage

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Cable Act

- Did not repatriate those women who had married non-naturalized men between the years of 1907 and 1922.
- Did not offer a way to repatriate other than the full naturalization process.
- Did nothing for women who married an immigrant who could not qualify for naturalization himself.

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Asian Exclusion

- Begun with the Chinese Exclusion Act in 1882
- Immigration Act of 1917 – created an “Asian Barred Zone” (much of Asia & Pacific Islands) from which immigrants could not enter the U.S.
- Immigration Act of 1924 barred immigration from: China, Japan, the Philippines, Siam (Thailand), French Indochina (Laos, Vietnam & Cambodia), Singapore, Korea, Dutch East Indies (Indonesia), Burma (Myanmar), India, Ceylon (Sri Lanka), and Malaya (mainland of Malaysia)

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Immigration Act of 1924

- More than just denying entry of immigrants to the U.S., it also barred entry of American born women, living abroad, who were married to those ineligible classes
- Such women were now held to the Quota limitations of the countries of their husbands, despite their having been born in the U.S.
- Ineligible classes had extremely small quota numbers.

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1931

- In 1931 Congress finally removed the final two hurdles for U.S. born women who were married to someone considered ineligible to naturalize:
 - Ineligibility of the spouse to naturalize
 - Foreign residence
- Though expatriated women still had to complete the entire naturalization process.

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Clues in Census

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Were they naturalized?

- Census records often supply you with the needed clues to if a man was naturalized
- Some of the censuses also include the year of naturalization
- If there is a date of naturalization for a married female on the 1920 census that is likely either her marriage date OR the date her husband naturalized

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Name	Sex	Age	Mar.	Color	Place of Birth	Year of Immigration	Year of Naturalization
Francis, Ellen	F	W	16	M	MASSACHUSETTS	MA	MA
Alfred, John	M	W	12	M	MASSACHUSETTS	MA	MA
Alfred, John	M	W	12	M	MASSACHUSETTS	MA	MA
John, Douglas	M	W	12	M	MASSACHUSETTS	MA	MA
Willie, Katherine	F	W	12	M	MASSACHUSETTS	MA	MA
Lucy, Lawrence	F	W	12	M	MASSACHUSETTS	MA	MA
Charles, Stephen	M	W	12	M	MASSACHUSETTS	MA	MA
Barbara, George	F	W	12	M	MASSACHUSETTS	MA	MA
Elizabeth, John	F	W	12	M	MASSACHUSETTS	MA	MA
John, Robert	M	W	12	M	MASSACHUSETTS	MA	MA
William, Emma	F	W	12	M	MASSACHUSETTS	MA	MA
Samuel, William	M	W	12	M	MASSACHUSETTS	MA	MA
Elizabeth, George	F	W	12	M	MASSACHUSETTS	MA	MA
George, Douglas	M	W	12	M	MASSACHUSETTS	MA	MA

1910 U.S. Census

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NAME	SEX	AGE	MARRIAGE	COLOR	PLACE OF BIRTH	YEAR OF IMMIGRATION	YEAR OF NATURALIZATION	CITIZENSHIP.		
								Year of Immigration of Spouse	Naturalized or Native	If naturalized, date
1901 Cal								13	14	15
1867 Pa. 1873										
1870 Pa. 1877										

1920 U.S. Census

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NAME	RELATION	SEX	AGE	DATE OF BIRTH	PLACE OF BIRTH	IMMIGRATED	EDUCATION	REMARKS
X 174 385	Head	M	47	1847	Massachusetts			
	Wife	F	42	1844	Massachusetts			
	Son	M	18	1855	Massachusetts			
	Daughter	F	13	1857	Massachusetts			
	Son	M	10	1859	Massachusetts			
A 150 236	Head	M	32	1858	Canada			
	Wife	F	29	1859	Canada			
A 151 177	Head	M	67	1810	Canada			
	Wife	F	63	1815	Canada			
X 152 238	Head	M	46	1844	Canada			
	Wife	F	42	1844	Canada			

1901	1867	1873
1870	1877	

1920 U.S. Census

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George	son	M	20	1850	Massachusetts		
Philip	son	M	16	1855	Massachusetts		
Elizabeth	daughter	F	10	1858	Massachusetts		
Edith	daughter	F	7	1861	Massachusetts		
Margaret	daughter	F	5	1863	Massachusetts		
Samuel	son	M	2	1865	Canada		
William	son	M	1	1866	Canada		
John	son	M	11	1850	Massachusetts		
John	son	M	46	1844	Canada		
Charles	son	M	18	1852	Massachusetts		
Elizabeth	daughter	F	16	1854	Massachusetts		
Marion	daughter	F	14	1856	Massachusetts		
John	son	M	17	1850	Canada		
John	son	M	11	1858	Massachusetts		
John	son	M	51	1840	Massachusetts		
John	son	M	46	1844	Canada		
John	son	M	18	1850	Massachusetts		
John	son	M	17	1851	Massachusetts		

1920 Census

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NAME	RELATION	SEX	AGE	DATE OF BIRTH	PLACE OF BIRTH	IMMIGRATED	EDUCATION	REMARKS
John	Head	M	42	1848	Massachusetts			
Elizabeth	Wife	F	38	1844	Massachusetts			
John	Son	M	18	1860	Massachusetts			
Elizabeth	Daughter	F	15	1863	Massachusetts			
John	Son	M	12	1866	Massachusetts			
Elizabeth	Daughter	F	9	1869	Massachusetts			
John	Son	M	6	1872	Massachusetts			
Elizabeth	Daughter	F	3	1875	Massachusetts			
John	Son	M	1	1878	Massachusetts			
Elizabeth	Daughter	F	11	1860	Massachusetts			
John	Son	M	4	1874	Massachusetts			
Elizabeth	Daughter	F	1	1877	Massachusetts			
John	Son	M	18	1850	Massachusetts			
Elizabeth	Daughter	F	15	1853	Massachusetts			
John	Son	M	12	1856	Massachusetts			
Elizabeth	Daughter	F	9	1859	Massachusetts			
John	Son	M	6	1862	Massachusetts			
Elizabeth	Daughter	F	3	1865	Massachusetts			
John	Son	M	1	1868	Massachusetts			
Elizabeth	Daughter	F	11	1860	Massachusetts			
John	Son	M	4	1874	Massachusetts			
Elizabeth	Daughter	F	1	1877	Massachusetts			

1930 U.S. Census

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Immigrated in 1893
Listed as an Alien

Repatriation

- The act of regaining U.S. citizenship
- U.S. born men who fought for another country (such as Canada during World War I before the U.S. entered) would lose their U.S. citizenship would have to repatriate
- Prior to 1936 U.S. born women who lost their citizenship by marriage required to go through the entire naturalization process

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Repatriation

- Despite legislator's hopes of an easier manner for women to repatriate as early as 1922, such an option was not a reality until the passage of an act on June 25, 1936.
- And one more act passed on July 2, 1940, would be needed before real separation of marriage and citizenship took place.

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Act of June 25, 1936

74TH CONGRESS, SESS. II, CHS. 801, 802, JUNE 25, 1936. 1917

[CHAPTER 801.] AN ACT

To repatriate native-born women who have heretofore lost their citizenship by marriage to an alien, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That hereafter a woman, being a native-born citizen, who has or is believed to have lost her United States citizenship solely by reason of her marriage prior to September 23, 1922, to an alien, and whose marital status with such alien has or shall have terminated, shall be deemed to be a citizen of the United States to the same extent as though her marriage to said alien had taken place on or after September 23, 1922:

Provided, however, That no such woman shall have or claim any rights as a citizen of the United States until she shall have duly taken the oath of allegiance as prescribed in section 4 of the Act approved June 29, 1906 (34 Stat. 596; U. S. C., title 8, sec. 381), at any place within or under the jurisdiction of the United States before a court exercising naturalization jurisdiction thereunder or, outside of the jurisdiction of the United States, before a secretary of embassy or legation or a consular officer as provided in section 1750 of the Revised Statutes of the United States (U. S. C., title 22, sec. 151); and such officer before whom such oath of allegiance shall be taken shall make entry thereof in the records of his office or in the naturalization records of the court, as the case may be, and shall deliver to such person taking such oath, upon demand, a certified copy of the proceedings had, including a copy of the oath administered, under the seal of his office or of such court, at a cost not exceeding \$1, which shall be evidence of the facts stated therein before any court of record or judicial tribunal and in any department of the United States.

Approved, June 25, 1936.

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Act of July 2, 1940

54 STAT.] 76TH CONG., 3d SESS.—CHS. 509-512—JULY 2, 1940

[CHAPTER 509] AN ACT

To repatriate native-born women residents of the United States who have heretofore lost their citizenship by marriage to an alien.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to repatriate native-born women who have heretofore lost their citizenship by marriage to an alien, and for other purposes", approved June 25, 1936 (U. S. C., 1934 edition, Supp. IV, title 8, sec. 9a), is amended by inserting after "terminated" the following: "or who has resided continuously in the United States since the date of such marriage,".

Approved, July 2, 1940.

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Finding Repatriation Records

- Repatriation records used Form N-415, Application to Take Oath of Allegiance to the United States
- Usually filed in separate volumes within the court.
- ALL of the titles will include the word *repatriation*
- Found in RG 21 – Records of District Courts of the United States
- Generally found at NARA Branches

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Archives.gov/research/guide-fed-records

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Records of District Courts of the United States

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- 21.2.9 Records of the Confederate States District Court for the Southern Division of the District of Alabama

Archives.gov/research/guide-fed-records

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Textual Records (in Atlanta): Case files, 1813-18.

21.2.2 Records of the U.S. District Court for the Northern District

Textual Records (in Atlanta): Records of the Northeastern Division (Huntsville), including minute books, 1826-1963; dockets, 1838-1957; case files, 1866-1963; final record books, 1875-1931; and records relating to naturalization, 1875-94, 1909-11, and 1923-26. Records of the Eastern Division (Anniston), including minute books, 1903-64; dockets, 1903-57; case files, 1903-63; civil order books, 1939-50; and final record books, 1907-30. Records of the Middle Division (Gadsden), including minute books, 1909-76; dockets, 1909-67; case files, 1910-63; and final record books, 1911-30. Records of the Southern Division (Birmingham), including minute books, 1885-1964; dockets, 1883-1967; case files, 1887-1967; final record books, 1891-1932; roll of attorneys, 1885-1947; and records concerning naturalization, 1909-62. Records of the Western Division (Tuscaloosa), including minute books, 1905-68; dockets, 1905-63; case files, 1905-63; and final record books, 1912-31. Records of the Northwestern Division (Florence), including minute books, 1909-75; dockets, 1909-57; case files, 1910-63; and records concerning naturalization, 1922-29. Records of the Jasper Division, including minute books, 1912-67; dockets, 1912-57; case files, 1912-63; and final record books, 1914-30. Records for all divisions including judgments of acquittals, 1946-74; civil judgment dockets, 1945-52; indexes to general minutes, 1885-1953; minute books, 1885-1965; civil order books, 1938-50; equity minute books, 1930-52; criminal minute books, 1938-64; declarations of intention, 1910-59; naturalization petitions and indexes, 1911-63; overseas naturalization petitions, 1943-55; naturalization orders, 1926-70; and renatiation oaths, 1922-63. Also judgement and order books for both criminal and civil cases, 1951-76.

Microfilm Publications: M1547.

<https://www.archives.gov/research/guide-fed-records>

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Women and the Law

- Women have often been restricted by laws
- Some of the laws though do generate records on your women
- Some women, such as Abigail Adams, understood their situation and looked to change it

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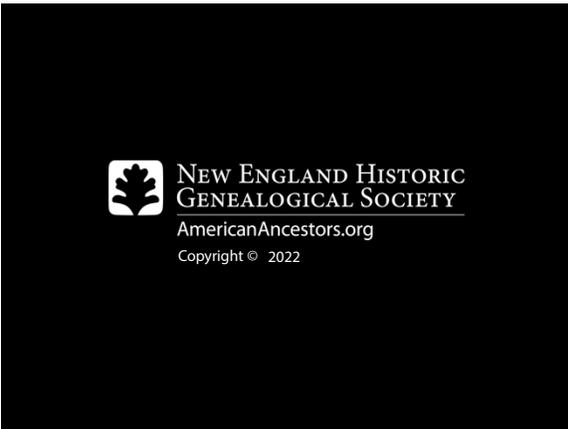
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