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Women and Wills: An Empirical Analysis of the Married Women's Property Act and its Remarkable Resonance Today

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By 1900, the state of Missouri had a quarter century's worth of experience with its version of the Married Women's Property Act, passed in 1875 to reverse the common law and decree that personal property acquired by a married woman was her own to control. In 1889, the statute was amended to grant a married woman similar rights over her real property. While the new statute did not affect any property a wife had acquired before its passage, it specifically provided that the husband had no right to any property she obtained after the law went into effect. However, a married woman in Missouri was still constrained in other ways. She could not serve as executrix or administratrix of an estate, and if she had been appointed as such, her letters were revoked as soon as her marriage was suggested to the probate court. Although Missouri allowed women to write their wills, the will of a single woman who later married was automatically revoked under the theory that marriage repealed a woman's ability to execute her own will. Overall, the ability for a woman to change these laws was limited: no woman, married or single, could be Governor or any other executive officer, state legislator, juror or judge of a circuit court in Missouri. Furthermore, women could not vote in the state until the 1919 presidential election.

My research investigates whether these restrictions on women are reflected in the probate files for the year 1900 in the city of St. Louis. I chose that city in part because it was the fourth largest city in the United States at that time, and in part because its probate files are available online. I examine all 805 probate files for the year to examine issues such as:

1. What assets did married women have in 1900? What about single women? To whom did they leave their property?
2. Did women have their own businesses as reflected in the probate files? Did women provide the bonds for administrators or executors? Would I find professional women in the probate files -- doctors, lawyers, notaries ? or mainly clerical workers?
3. Did married men name their wives as executrix, or fathers their daughters rather than their sons, especially if they had real property that would require management for two years or more while the estate went through probate? Probate administration of real property was not a passive role: the files reflect the work done in collecting rents; hiring roofers, plumbers, and painters; and in one case, finishing work on buildings on four properties including supervising the installation of electricity and an elevator.
4. St. Louis was a pioneer in establishing public education. Even so, many of its citizens, especially women, could not read or write. Would that be an obstacle to appointing someone to administer an estate or to execute her will?
5. Did the probate code accurately reflect the average married person's wishes, or did these testators have other ideas?

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